3714.

SUPREME COURT OF THE UNITED STATES.

No. 170.

THE NEW YORK AND BALTIMORE TRANSPORTATION COMPANY, APPELLANTS,

vs.

THE PHILADELPHIA & SAVANNAH STEAM NAVIGATION COMPANY, OWNERS OF THE STEAMSHIP KEYSTONE STATE.

APPEAL FROM THE CIRCUIT COURT U. S. FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

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Pleas and proceedings before the Honorable John K. Kane, Judge of the District Court of the United States, in and for the eastern district of Pennsylvania.

Be it remembered, that on the twentieth day of August, A. D. 1857, Henry M. Phillips and George M. Wharton, esquires, proctors in said court, come into the said court and exhibit the libel and complaint of the New York and Baltimore Transportation Company, against the steamship Keystone State, which being read and filed, is in the words following, to wit:

In the District Court of the United States for the eastern district of Pennsylvania.

NEW YORK AND BALTIMORE TRANSPORTATION CO.
vs.
THE KEYSTONE STATE.

To the Honorable John K. Kane, Judge of the District Court of the United States for the eastern district of Pennsylvania:

The libel and complaint of the New York and Baltimore Transportation Line, owners of the barge A. Groves, jr., (whereof William Mullen is the master,) her tackle, apparel, and furniture, as well for themselves as for all other parties interested in certain merchandise which was on board of said barge at the time of the collision hereinafter mentioned, a list of which is annexed hereto, marked "Exhibit (A)," and who may hereafter intervene and become parties to this proceeding, against the steamship the Keystone State, (whereof C. P. Marshman now is or lately was master, and Alexander Heron, owner or reputed owner,) her tackle, apparel, and furniture, and against all persons lawfully intervening for their interest in said steamship, in a cause of collision, civil and maritime.

And thereupon the said The New York and Baltimore Transportation Line allege and articulately propound as follows:

First. That they now are, and at the time of the occurrences hereinafter mentioned were, the true and lawful owners of the barge A. Groves, jr., and also of the steam propeller the Artisan, (whereof William Cundiff is and was the master,) and their respective tackle, apparel, and furniture. That the said barge before and at the time of receiving the damage and injuries hereinafter mentioned, was a tight, staunch, and strong vessel, of the burthen of about one hundred and twenty-one tons, well and sufficiently manned and equipped, and provided with tackle, apparel, and furniture; and that the libellants are a corporation duly incorporated by the State of Maryland.

Second. That on Tuesday morning, the 18th day of August, A. D. 1857, between the hours of 1 and 2 o'clock of that day, the said propeller, a vessel of about one hundred and sixty tons, was proceeding down the river Delaware, with her usual complement of freight and passengers, having in tow the said barge, on their way from the city of New York, in the State of New York, to the city of Baltimore, in the State of Maryland, and through the Chesapeake and Delaware canal, between which cities the said propeller and barge were accustomed to ply. That while so proceeding, when about two miles below Marcus Hook, near to the Jersey side of the channel of said river, which is about three-quarters of a mile wide, and within the ebb and flow of the tide, and within the admiralty and maritime jurisdiction of this honorable court, with all the usual and proper lights properly displayed upon the said propeller and barge; and the pilot of the said propeller was in his usual and proper place, and the captain and one of the crew were keeping a due, careful, and diligent look-out, and while the said propeller and barge were in their proper place in said river, the said steamship, the Keystone State, a side-wheeled steamer of about fourteen hundred tons, (whereof C. P. Marshman was or is the master, and Alexander Heron the owner, or reputed owner,) was bound up the said river; and although the said master of the said steamship, or those having the charge and control of her, had time and tide enough to have kept clear of the said propeller and barge, and might with great ease and safety have done so; and notwithstanding there was room sufficient for the said steamship to have passed in safety the said propeller and barge, yet the said master of the said steamship, or those having her in charge, ran the said steamship out of her usual and proper course with very great force and violence, foul of, into and against the starboard side of the said barge, about two feet aft of her after gangway, and thus cut her down, and caused the said barge to sink in the said river. The said steamship was going through the water at the rate of about twelve miles per hour, although the tide was running down.

Third. That at the time of the collision mentioned in the next preceding article, the said barge was in the tow of the said propeller, in a straight line with her, the hawser being taut, and about one hundred and seventy feet long, and that the barge was thus under the control of the said propeller. That, just previous to the said collision, those having the charge of the said propeller observed the said steamship over their starboard bow, coming up the said river, upon the western side of the same. That, when about three-quarters of a mile distant from the said propeller, those having charge of the said steamship changed her course more out into the stream of the said river, and headed her in a diagonal direction towards the said propeller. That, thereupon, as soon as

those having the charge of the said propeller noticed the change in the course of the said steamship, they put the helm of the said propeller to the starboard, and were thus enabled to clear the said steamship by about 30 to 40 feet; and that, thereupon, the said barge immediately followed the motion of the said propeller, and sheered when and as she did, but the said steamship keeping on her course, ran into the said barge and sunk her, as mentioned in the next preceding article.

Fourth. That had the master or those having the charge of the said steamship kept her on her course, on the western side of the channel of the said river, as when first observed by those having the charge of the said propeller, as mentioned in the next preceding article, the said steamship would have entirely cleared the said propeller and barge; and had those having charge of the said propeller when they observed the change in the course of the said steamship, as mentioned in the next preceding article, ported the helm of the said propeller, she would have been thrown across the bow of the said steamship, which was coming up the said river, towards the said propeller, in a diagonal course or line.

Fifth. That before and at the time of the collision mentioned in the second article, the said propeller had two good lights displayed, one on the bow and the other on the main flag-staff; and one of the pilots was steering, and the captain and one of the crew of the said propeller were forward on the look-out; and there was abundance of room for the said steamship to have passed clear of the said propeller and barge without collision, and without any damage whatever; and such would have been the case, but for the improper and wrongful change in the course of the said steamship, as mentioned in the third article, and had those in charge of the said steamship kept a proper look-out, and used due and proper diligence, care and skill in navigating her.

Sixth. That at the time of the said collision, the said barge was laden with a cargo of merchandise belonging to different persons, of about sixty tons in burthen, but of bulk nearly sufficient to fill and fully load the said barge, and of great value, to wit, of the value of seventy thousand dollars, a schedule of which is hereto annexed marked ("A,") which the said libellants as common carriers were conveying to the said city of Baltimore, the freights and advanced charges upon which amounted to a large sum of money, to wit, the sum of five hundred dollars; and the said goods and merchandise have been greatly damaged by the said collision to an amount of at least thirty-five thousand dollars; the said freights have been thereby lost to the said libellants, and the said barge damaged to an amount of two thousand five hundred dollars, and the libellants have, by the collision and means hereinbefore stated, sustained damage to an amount of at least thirty-eight thousand dollars.

Seventh. That the said steamship, the Keystone State, is a large side-wheeled steamer of about fourteen hundred tons, engaged in running to and from the city of Philadelphia, in the State of Pennsylvania, and the city of Savannah, in the State of Georgia, with passengers and merchandise; and at the time of the collision mentioned in the second article, was proceeding up the river Delaware from the said city of Savannah to the said city of Philadelphia, with passengers and merchandise, and is now within the eastern district of Pennsylvania.

Eighth. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of this honorable court, in verification whereof, if denied, the libellants crave leave to refer to the depositions and other proofs to be by them exhibited in this cause.

Wherefore the libellants pray that process in due form of law, according to the course of the courts of admiralty and of this honorable court, in causes of admiralty and maritime jurisdiction, may issue against the said steamship "The Keystone State," her tackle, apparel and furniture, which are now within the jurisdiction of this honorable court; and that all persons having or pretending to have any right, title, or interest therein, may be cited to appear and answer upon oath all and singular the matters so articulately propounded; and that this honorable court would be pleased to pronounce for the damages aforesaid, and to decree such other relief to libellants as shall in law and justice appertain; and also to condemn the said steamship the Keystone State, her tackle, apparel and furniture, and all persons respectively intervening for their interests therein, in costs.

GEO. W. M'LEAN,
Ag't New York and Baltimore Transportation Line.

G. M. WHARTON,
HENRY M. PHILLIPS,
Proctors.

UNITED STATES,
Eastern District of Pennsylvania, sct.

On this twentieth day of August, A. D. 1857, before me, Charles F. Heazlitt, a commissioner appointed by the circuit court of the United States in and for the eastern district of Pennsylvania, in the third circuit, under the laws of the United States, to take affidavits and acknowledgments of bail, &c., personally appeared George W. M'Lean, who being duly sworn, did depose and say, that he is the agent of the said libellants, specially intrusted with regard to the facts of this case, and to make the necessary affidavits. That he has read the foregoing libel, and knows the contents thereof, and that the same is true of his own knowledge,

except as to the matters therein stated to be on his information and belief, and as to those matters he believes it to be true.

CHAS. F. HEAZLITT,
U. S. Commissioner.

In the District Court of the United States in and for the eastern district of Pennsylvania.—In Admiralty.

And now, August 20, 1857, the said libel of complaint is in open court presented by George M. Wharton, esq., the proctor for the libellant; and thereupon, the court having considered of the same, it is ordered and decreed, that process of law do issue according to the prayer of the said libellant in said libel of complainant set forth and contained, on compliance on his part with the rules of court in that behalf established, and that the stipulation on the part of the impugnant, if such there shall be, be taken in the sum of fifty thousand dollars, to answer, abide by, fulfil, perform, and pay, &c., according to the law and practice of this court.

J. K. KANE,
Judge District Court U. S. E. D. of Pennsylvania.

And stipulation for costs is entered in the words following, to wit:

UNITED STATES,
Eastern District of Pennsylvania, ss.

On this twentieth day of August, A. D. 1857, and in the eighty-second year of the independence of the said United States, in open district court of the United States, personally appeared Anthony Groves, jr., and by stipulation in due course of law, acknowledged himself to be indebted to the United States of America for the use of all persons who may be interested in the premises, in the sum of two hundred and fifty dollars, to be levied of his goods and chattels, lands and tenements, on consideration that if the libellants in the above action shall pay all costs which by the decree, mandate, or practice of the court, they may become liable to pay, then this stipulation to be void and of no effect, otherwise to be and remain in full force and virtue; and execution to issue thereon forthwith, for the amount of such costs, at the instance of any person interested as aforesaid.

A. GROVES, JR.

Taken, acknowledged, and subscribed this twentieth day of August, A. D. 1857, in open court.

THOMAS L. KANE,
Cl'k Dist. Court.

And thereupon, process is issued in the words following, to wit:

UNITED STATES,
Eastern District of Pennsylvania, sct.

John K. Kane, Judge of the District Court of the United States, in and for the eastern district of Pennsylvania, to the Marshal of the same district, greeting:

You are hereby commanded, in the name and by the authority of the United States, forthwith to seize and attach the steamship or vessel called the Keystone State, C. P. Marshman, now or late master, A. Heron, owner, or reputed owner, together with all and singular her tackle, apparel and furniture, as the same now are, and the same safely keep to abide the final order and decree of this court in a certain plea, civil and maritime, herein prosecuted against the said steamship, &c., by the New York and Baltimore Transportation Line, owners of the barge A. Groves, jr., for themselves and all other parties interested, &c., libellants, for damages by collision, &c.; and you are further admonished, in the name and by the authority aforesaid, to cite and admonish the said master and owner, and generally all others herein concerned, so that they be and appear before me at a special session of this court, to be holden at the room of the district court of the United States, in the city of Philadelphia, on the fourth day of September next, at eleven o'clock in the forenoon of the same day, then and there to show cause, if any they have, why the said steamship, &c., should not be condemned, &c., for the payment of the said damages, &c., and have you then there this writ.

Given under the seal of the said court, at Philadelphia, this twentieth day of August, A. D. 1857, and in the eighty-second year of the independence of the said United States.

THOMAS L. KANE,
Cl'k Dist. Court U. S.

On which said fourth day of September, A. D. 1857, being the day of the return of the said writ, the said marshal makes return thereto in the words following, to wit:

Aug't 20th, 1857.

Attached the within named steamship, and cited the master and reputed owner therein mentioned, by reading to them the within writ, and leaving with them a copy of the same.

So answers,

J. S. YOST,
U. S. Marshal.
Per GEO. WYNKOOP.

Afterwards, to wit, on the twenty-second day of August, A. D. 1857, the said Alexander Heron, jr., makes and files a claim in the words following, to wit:

In the District Court of the United States in and for the eastern district of Pennsylvania.—In Admiralty.

THE NEW YORK AND BALTIMORE TRANSPORTATION COMPANY vs. STEAMER KEYSTONE STATE. } Plea, Civil and Maritime, for .

And now, Alexander Heron, jr., intevening for the interest of the Philadelphia and Savannah Navigation Company, appears before the honorable court, and makes claim to the said steamship, her tackle, apparel, and furniture, as the same are attached by the marshal under process of this court, at the instance of the New York and Baltimore Transportation Line; and the said Alexander Heron, jr., avers that he was in possession of the said steamship at the time of the attachment thereof, and that the persons above named are the true and bona fide owner of the said steamship, and that no other person is the owner thereof, and the said Alexander Heron, jr., is agent of the said steamship, and the true and lawful bailee thereof, for the said owner; wherefore he prays to be admitted to defend accordingly.

A. HERON, JR.

Sworn and subscribed in open court, this 22d day of August, A. D. 1857.

THOMAS L. KANE,
Clerk District Court U. S.

And thereupon, stipulation is entered in the words following, to wit:

UNITED STATES,
Eastern District of Pennsylvania.

Be it remembered, that at a special district court of the United States, in and for the eastern district of Pennsylvania, holden at Philadelphia, on the twenty-second day of August, A. D. 1857, and in the eighty-second year of the independence of the said United States, before the Honorable John K. Kane, judge of said court, come Mahlon Williamson, George J. Weaver, Benjamin Marshall, Samuel E. Stokes, Daniel Haddock, jr., William L. Maddock, Washington Butcher, and Thomas B. Wattson, who freely and voluntarily submitting themselves to the jurisdiction of the said court, acknowledge themselves to be jointly and severally indebted unto the New York and Baltimore Transportation Line in the sum of forty thousand dollars, lawful money of the United States, to be levied of the goods and chattels, lands and tenements of the said Mahlon, George J., Benjamin, Samuel E., Daniel, William L., Washington, and Thomas B., to the use of the said the New York and Baltimore Transportation Line; upon condition, that

whereas a suit is now pending in the said court for collision, wherein the said the New York and Baltimore Transportation Line are the libellants against the steamship Keystone State, and the Philadelphia and Savannah Steam Navigation Company claimants:

Now, if the said claimants shall well and truly abide by all orders, interlocutory or final, of the said court, and of any appellate court in which the said suit may hereafter be depending, and shall fulfil and perform the judgment or decree which may be rendered in the premises, and also pay all such costs and charges as shall be ordered and adjudged to be paid on their part, then this stipulation shall be void; otherwise in force; and execution may issue by virtue thereof, at one and the same time, against any or all the parties to this stipulation.

M. WILLIAMSON,
GEORGE. J. WEAVER,
BENJ. MARSHALL,
WM. L. MADDOCK,
WASHINGTON BUTCHER,
THOMAS B. WATTSON,
D. HADDOCK, JR.,
SAM'L E. STOKES.

Taken, acknowledged, and subscribed in open court, on the day and year above written.

THOMAS L. KANE,
Clerk Dist. Ct.

NOTE.—By consent of Mr. Phillips, the amount of stipulation is reduced to $40,000.

And thereupon it is ordered that a writ of restitution issue to the marshal, directing him to restore the said steamer to the said claimant, upon payment to him of his costs, and the necessary expenses by him incurred. Which said writ being issued, is in the words following, to wit:

[L. S.] UNITED STATES,
Eastern District of Pennsylvania.

John K. Kane, Judge of the District Court of the United States, in and for the eastern district of Pennsylvania, to the Marshal of the same district, greeting:

You are hereby commanded to deliver and restore unto the Philadelphia and Savannah Steamship Company the steamship or vessel called the Keystone State, with her tackle, apparel, and furniture, or so much thereof as was lately and is now in your custody and possession, by virtue of a writ of attachment, lately issued out of said court, at the suit of the New York and Baltimore Transportation Line, libellants, for collision, and how you shall have

executed this writ, make return to me at a special session of said court, to be holden at the city of Philadelphia, on the 29th day of August, A. D. 1857, and have you then and there this writ.

Given under the seal of said court, at Philadelphia, this twenty-second day of August, A. D. 1857, and in the eighty-second year of the independence of the said United States.

THOS. L. KANE,
Cl'k Dist. Court.

On which said twenty-ninth day of August, the said marshal makes return thereof, in the words following, to wit:

I have restored the steamship Keystone State to the Philadelphia and Savannah Steamship Company, as by the within writ I was commanded.

So answers,

J. S. YOST,
U. S. Marshal.
Per GEO. WYNKOOP,
Dep. U. S. M.

And Charles S. Keyser and St. George J. Campbell, esquires, also proctors of said court, come into the said court and exhibit the answer of the Philadelphia and Savannah Steamship Company to the libel aforesaid, which being read and filed, is in the words following, to wit:

UNITED STATES OF AMERICA,
Eastern District of Pennsylvania.

To the Honorable John K. Kane, Judge of the District Court of the United States in and for the eastern district of Pennsylvania:

And now, the Philadelphia and Savannah Steam Navigation Company, owners of the steamship the Keystone State, appear before this honorable court, and, for answer to the libel and complaint of the New York and Baltimore Transportation Line, owners of the barge A. Groves, and against the steamship the Keystone State, her tackle, apparel and furniture, and against all persons lawfully intervening for their interest in said steamship, in a cause of collision, civil and maritime, allege and articulately propound as follows:

First. That the respondents are the true and lawful owners of the steamship the Keystone State, a vessel of fifteen hundred tons, or thereabouts.

Second. That your respondents are not informed as to the truth of the allegations set forth in the first article of said libel, and do not admit the same, as therein alleged, to be true, but ask that the same may be duly proved.

Third. That your respondents further allege and propound, that

the matters in the second article of said libel are in great part falsely alleged; that the truth is as hereinafter particularly propounded.

That the said steamship, the Keystone State, being in good order, seaworthy, and well and sufficiently equipped and manned, sailed on the 15th day of August, A. D. eighteen hundred and fifty-seven, under the command of Charles P. Marshman, from the port of Savannah, in Georgia, bound for the port of Philadelphia, carrying passengers and a full freight; that the said steamer had on board, at and before the time of the said collision, Jeremiah Bennet, a branch pilot, duly licensed and qualified to conduct and manage ships in the Delaware bay and river.

That on Tuesday morning, the eighteenth day of August aforesaid, at or about the hour of one o'clock, the night being partially cloudy, while so proceeding in the course of said voyage up the river Delaware, and about four miles below Marcus Hook, the second mate discovered lights ahead; the lights were at the same time seen by the pilot and look-out; they appeared to be then three miles distant from and directly ahead of the said steamer; that the said steamer was then about mid-channel of the river, and in her proper place; that the said pilot kept the said steamer on her proper course up the said channel, keeping the lights so as aforesaid mentioned on her larboard bow, and as near ahead as might be; that, after continuing her said course some distance, and when about a mile off from said lights, they were made out to be the lights of a steamer only, which steamer they, after the said collision, ascertained to be the propeller the Artisan, mentioned in said article.

That the said propeller then appeared to be mid-channel, and the said steamship still being about mid-channel, and in her proper place and course, the said pilot gave orders to port the helm of said steamship, which orders were forthwith complied with, bringing said propeller, in consequence of said change of direction, a point on the larboard bow of said steamship.

That the said steamship was then bearing northeast by east, and continued, under the said order, her said course, until within about three hundred yards from said propeller; that then, and when the said steamer was so near the said propeller, the said propeller starboarded her helm, and attempted to cross the bows of said steamer; that instantly thereupon the bell of said steamer was rung to slow and stop in immediate succession, which order was immediately complied with; that, in consequence of said slowing down and stopping, the said propeller had room to pass, and did pass the said steamer; that at and immediately before the said propeller so cleared the said steamer, a barge, which your respondents were afterwards informed was the barge A. Groves, hove in sight, attached by a hawser to said propeller, but not in a straight

line, as in said article stated, and immediately afterward, in consequence of the said change of direction in said propeller, the said barge was dragged directly in front of the bows of said steamer, occasioning the damage, if any, alleged in said libel; that the said steamer, at and before the time of the collision, had her proper watch in their proper places, and was in her proper place in said river, and was in a lawful, prudent, and customary manner navigating the same; that at and before the time of the said collision, she had her proper lights properly displayed; that the said steamer was proceeding up the said river at the rate of about nine miles an hour, and at the time of the collision was still in the water; that the collision was in consequence of the gross negligence of those having charge of the said propeller.

Fourth. That your respondents, admitting that at the time of the said collision a certain barge, the said barge the A. Groves, referred to in the third article of said libel, was in tow of the said propeller, and attached to the same by a hawser, and further admitting, that before the collision the helm of the said propeller was put to the starboard, deny that the said charge of deviation thereby produced was necessary on account of any movement of said steamer; and further, deny that the same was the occasion of the said propeller clearing the said steamer, but, on the contrary, your respondents allege that the same was the direct cause of the collision.

Your respondents further allege, that the said steamer was at no time on the western side, but in mid-channel of said river, following the usual course of said steamer up the said river; and for further answer to the said third article of said libel, your respondents crave leave to refer to the allegations contained in the next preceding answer.

Fifth. That the said steamer followed the course in the last preceding answer alleged, and ported her helm in the usual manner to go clear of said propeller, and would have gone clear of the said propeller and barge, if the said propeller had not starboarded her wheel as in this last preceding answer described.

Sixth. That your respondents, not admitting that proper and sufficient lights were displayed, deny the same, and ask that the same may be duly proved. They further deny, that there was abundance of room, after said change of direction made by said propeller, for the said steamer, by any movement which could then have been made, to have gone clear of said barge; and they further affirm that due and proper diligence, care and skill in the navigation of said steamer on the occasion referred to in said libel, was used.

Seventh. That your respondents do not admit the allegations contained in the sixth article of said libel, but deny the same, and ask that the same may be duly proved.

Eighth. Your respondents admit the averments contained in the

seventh article of said libel to be substantially as therein stated, and do not except to the same.

Ninth. That all and singular the premises are true, in verification whereof, if denied, the respondents crave leave to refer to the depositions and other proofs to be by them exhibited in the cause.

Wherefore the respondents pray that this honorable court would be pleased to pronounce against the libel aforesaid, and to condemn the libellants in costs, and otherwise right and justice to administer in the premises.

M. WILLIAMSON,
Pres't.

Attest:
WM. DENNIS,
Secretary.

CHARLES S. KEYSER,
ST. GEORGE T. CAMPBELL,
Proctors.

UNITED STATES,
Eastern District of Pennsylvania, sct.

On this twenty-seventh day of October, A. D. 1857, before me, Charles F. Heazlitt, a commissioner appointed by the circuit court of the United States in and for the eastern district of Pennsylvania, in the third circuit, under the laws of the United States, to take affidavits and acknowledgments of bail, &c., personally appeared M. Williamson, who being duly sworn, did depose and say, that he is the president of the Philadelphia and Savannah Steam Navigation Company, specially instructed as to the facts of the case; that he has read the foregoing answer, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be on his information and belief, and as to those matters he believes it to be true.

CHAS. F. HEAZLITT,
U. S. Commissioner.

In the District Court of the U. S., in and for the E. D. of Penn'a.—
In Admiralty.

THE NEW YORK AND BALTIMORE TRANSPORTATION LINE
vs.
STEAMER KEYSTONE STATE.
} Collision.

Depositions of witnesses on behalf of libellants, taken before Chas. F. Heazlitt, United States Commissioner, at Philadelphia, September 1, 1857: Mr. H. M. Phillips and Mr. G. M. Wharton for libellants; Mr. St. George T. Campbell and Mr. C. S. Keyser for respondents.

Written interrogatories waived by consent.

William M. Rockwell being duly sworn, says:

I reside in New York; I am the receiving and shipping clerk at New York for the libellants.

(Witness handed paper marked A.)

This is the manifest of the goods shipped on board the barge A. Groves—shipped at New York, bound for Baltimore. The barge belongs to the New York and Baltimore Transportation Line. I think the shipment was on the 15th of August last.

Cross-examined by Mr. Campbell.

Part of this paper (A) is in my handwriting. The first page of the three and the third of the three are in my handwriting. I made this from a copy that a clerk in the office had made before. My business is on the pier at New York. I have general supervision of the goods that are delivered on board of the vessel. There is only one original manifest made out. Copies of this manifest are kept. The original manifests are sent to Baltimore.

Re-examined.

My business is on the pier; I sometimes go on board the vessel in which the goods are shipped; I can't say that I went on this boat particularly at this time; I am off and on the boat constantly during the shipment of the goods. The boat lay at the pier.

Witness adds:

I wish to correct the place of residence. I lodge in Jersey City, and spend my days in New York.

Re-cross-examined.

I am not a stockholder in this company, but am still in their employ.

W. M. ROCKWELL.

Sworn to and subscribed Sept. 1, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

Mr. Campbell objects to the admissibility of paper marked A, as not being proved.

William Cundiff being sworn on his voir dire, says:

By Mr. Campbell.—I was on board the steam-tug Artisan at the time of collision; I was captain; I have no pecuniary interest in the boat as stockholder; I had charge of her at the time of collision.

Mr. Campbell objects, that the witness is incompetent, as responsible to libellants.

The witness is sworn in chief.

I reside in Baltimore; I have followed steamboating for thirteen years; will be 29 years old the 19th of January next; I commanded the steamer Artisan the last month, (August.) She belongs to the

Baltimore and New York Transportation Line. I know the barge A. Groves, jr.; she belongs to the same line. I left New York with the steamer on the 5th or 25th of August, I don't just remember; I don't recollect just at the moment. We were loaded with goods. I had command of the Artisan; James Foster was pilot; John Moore acted as wheelsman, and Thos. Queen, I call him, acts as watchman, and attends to the lights. That was all that was on watch at the time. We have another watchman; his name is William Moore; Thomas Bayard is deck hand; one more deck hand, whose name I disremember. There was the engineer, Frank Barratt; 2d engineer, ——— Faulkner; firemen, (2,) Lot Foster; the other one I don't remember his name. We had a cook and a boy. That is the whole company. We had the "Groves" in tow. She was a barge of about 120 tons, I think. Our tonnage was 122 or '3—I disremember. We are 112½ feet long, 22 feet wide, I think—a propeller. The barge is, I think, 80 feet long and about 22 feet wide; one mast. We took her in tow at New York. A man by the name of Mullen was in command of her. She had three men on board besides Mullen—two wheelsmen and one cook. She was loaded in the hold and on deck. I saw cargo put on board of her at New York, on pier 7, North river. I was there while she was getting loaded. Mr. Rockwell received the freight. He is the clerk on the wharf belonging to this line. The goods were principally dry goods. She was full. We took her in tow by a hawser of about 27 fathoms long; I don't know exactly its size; I judge it was a 5-inch rope in circumference. We took from New York to New Brunswick; thence by Delaware and Raritan canal into the Delaware; thence down the Delaware. We did not stop at Philadelphia; kept down the river without stopping.

Q. Can you recollect what day of the month, or week, that you passed the city?

Well, I don't recollect, sir. We did not get to Baltimore on that trip; the steamer ran into the barge on the Delaware.

Q. At day time or night time?

It was at night, sir; it was between one and two o'clock in the morning.

Q. What sort of a night, or morning, was it? Describe the weather.

It had been raining in the fore part of the night. It was a little starlight; clouds flying about, but now and then you could see the stars.

Q. Was there a moon or not?

No, sir.

Describe further, if you please, what kind of a night it was.

Well, that is about the kind of night.

Q. In what part of the river were you, captain, when this thing occurred?

I was near Marcus Hook buoy; that is below Marcus Hook. I don't know the exact distance, how far down; right abreast of Naaman's creek; very near; as near as we can get at it.

Q. On which side of the river?

On the Jersey.

Q. Who were on deck?

Myself, John Moore and Thomas Queen.

Q. Where were the others that you have mentioned?

They were below.

Q. What took them below, and brought you on deck?

They were off their watch at 12 o'clock, and I came on watch at 12 o'clock. I was standing forward of the pilot-house, looking out. The pilot-house is in the forward part of the steamer. Moore was at the helm-wheel. The wheel is in the pilot-house. Queen was standing aft of the house. We had lights; one on the flag-staff aft, and one forward on the stem.

We were nearly the middle of the river as we passed Marcus Hook, as I could judge, and steaming down, leaving Christine light on the starboard bow. This light is on the Pennsylvania shore. The tide was ebb. The barge was steering right after us; the hawser was taut.

Q. Did you observe a vessel or steamer? and if so, and she proved to be the Keystone State, state when and where you first saw her.

I observed a steamer; she was the Keystone State. I saw her on the Pennsylvania side; how far she was from us down the river I am not able to say. I don't know exactly the time when I first saw her.

Q. Well, as near as you can give it?

Well, I can't tell exactly the time, but it was between one and two o'clock, when the collision took place.

Question repeated.

It would be impossible for me to give the time I first saw her, I didn't pull out my watch to see.

Q. How long before the collision was it that you first saw her?

When I first saw her she was going right up the river; I didn't pay much attention to her.

Question repeated.

That would be pretty hard to say; it might be a few minutes, longer or shorter.

Q. To your best recollection?

Well, I suppose about five minutes, as near as I can come at it.

Q. Did the Keystone State continue on the course in which you first saw it, or did she change it; and if so, how?

She changed her course, and run from the Pennsylvania shore to the Jersey shore.

Mr. W.—I want you to describe her course and position in reference to your vessel.

Well, sir, she was going direct down the river for this buoy, and when I seen her alter her course, and found that I could not get on the Pennsylvania shore of her, I then starboarded my helm; then I run aft, sung out to the captain of the barge—the man that was steering—to starboard his helm, and he done so. At this time the ship was abreast of us—

Witness stopped by libellants' counsel, and—

Question repeated.

Well, she was coming direct across the river for me.

Q. In looking at her, as she thus came across the river, towards you, over what bow, or over what part of your vessel, did you see her coming?

On the starboard side.

Q. Now describe, captain, if you please, all that occurred; how the vessels came in contact, and all that occurred; describe it in your own way.

Well, she came in contact of the barge, struck her aft her gangway, sinking her immediately.

Q. Which side of the barge did she strike on?

She struck her on the starboard side.

Q. How far from her stern?

About 30 feet, I suppose, sir.

Q. Did she strike the Artisan?

No, sir.

Q. Did she strike the hawser?

No, sir.

Q. Did you observe, captain, any change in the course of the steamship, or any movement in her, after her change of course towards you, as you have described?

None at all, sir.

Q. What is her size, as near as you can tell?

Well, I suppose 900 or 1,000 tons; a side-wheel steamer.

Q. What was the effect of your putting your helm to starboard?

It had the effect to sheer my vessel.

Q. If you had not done it, what would have been the result?

She, the steamship, would have struck the Artisan.

Q. What would have been the effect of porting your helm at the time when you put it a-starboard?

She would have struck the Artisan.

Q. Where struck her, and how struck her?

She would have struck the Artisan on the bow, if I had ported my helm.

Q. What movement, if any, on the part of the steamship, would have cleared the barge?

If she had starboarded her helm, she would have cleared the barge.

Q. Give an explanation or reason for the opinion you have just given.

She was coming across the river; she couldn't help from seeing the barge; if she had starboarded her helm she must have cleared her.

Q. How far from the shore did the barge sink, and which shore?

She didn't sink to the bottom, sir; she filled full of water, and was drifting down the river, when I picked her up; when I got a line to her and towed her ashore.

Q. Was the body of the vessel submerged, or under the water?

Yes, sir.

Q. Where did you put her on the shore?

About half a mile below Naaman's creek, on the Pennsylvania shore.

Q. How much, if any, of the channel lay between your two vessels and the western shore, when the steamship was approaching you, as you have mentioned?

Two-thirds of the channel.

Q. Was there, or not, any obstruction to the passage of the steamer on the westward of you?

None as I know of.

Q. About how wide is the channel at that place?

About three-fourths of a mile, as near as I can judge.

Q. Had the steamship kept the course she was on when you first saw her, before she changed her course towards you, what would have been her course with reference to your course?

Well, she would have cleared us, the Artisan, about 300 yards.

Q. And as to the barge?

And about the same with regard to the barge; she was directly after us; she had her helm a-starboard.

Mr. W.—Let me see if I understand you. I am asking you with reference to the course of the steamship on the one side before she changed her course, and your two vessels on your side, before you put your helms to starboard.

She would have cleared us about the same. The barge was right after us at that time—that is, when I first seen the ship—and she had kept her direct course up the river.

Q. In going towards Marcus Hook buoy, how had you your helm, before you made any movement with reference to the steamship?

Witness.—Before I seen her?

Mr. W.—Before you made any reference to her at all.

I was steering as straight for the buoy as I could. My helm was midships.

Q. How near to the eastern side of the channel were you when the barge was struck?

About one-third of the way of the channel. It is a hard matter exactly to tell the time and distance at night, you see. If I could have seen the buoy, I suppose I could tell exactly.

I have seen and looked at the blow in the body of the barge

Q. What is its direction with reference to the barge itself?

It was cut one side nearly off. Is that what you mean?

Mr. W.—No, that is rather the effect of it.

Witness.—I don't know exactly what you mean.

Mr. W.—I mean you to answer, if you can, the course of blow, whether it is across the barge at right angles to its length, or whether it inclines towards the stem of the barge or towards the stern of the barge, and as near as you can say, at what angle it so inclines, if it does.

It inclines aft; it struck a kind of quartering on; that is about the best I know.

Q. How much higher out of the water was the steamship than the barge—as near as you can tell?

I should think from eight to ten feet, as near as I can tell. I think from ten to twelve feet from the edge of the water.

Adjourned till to-morrow at 10 a. m.

WEDNESDAY, *Sept.* 2, 1857.

Present, Mr. G. M. Wharton and Mr. H. M. Phillips, for libellants; Mr. St. Geo. T. Campbell and Mr. C. S. Keyser, for respondents.

The examination of Captain Cundiff is resumed by Mr. Wharton.

Q. Was the barge under the control of the tug Artisan, or did the Artisan obey the commands of those on the barge?

The barge was under the control of the propeller.

Cross-examined by Mr. Campbell, (subject to all legal exceptions.)

Q. How high was the deck of the barge above the level of the water?

The main deck was about four feet above the level of the water.

The projection under which the goods were placed is about 8 feet; I mean from the lower to the upper deck.

The sides as well as the upper deck were of wood; between the stanchions on the sides it is open, but has canvas curtains.

Q. About how long is this shed or upper deck?

I suppose about two-thirds of the barge—may be a little longer; can't tell exactly.

As near as I can judge, we left Bordentown about 5 or 6 o'clock in the evening; it was not raining then; it was raining when we passed Philadelphia.

Q. What is the diameter of the wheel of your propeller?

It is six and a half feet or seven feet, I can't say which.

It was not raining when we got opposite to Chester; it was not raining when I came on watch; it did not rain any more during that night. I could see the shores when I passed Chester; could see them on each side; I couldn't tell how far I could see; I could

see the land plain enough on each side; I could see the houses along town, when I passed Chester.

We were not steering by any compass down the river. We were running with Christine light a little on the starboard bow, from Marcus Hook down. I judge that course is about S. W. by S.

I can't tell you how wide the river is at the point of collision. The channel, as near as I can judge, is three-fourths of a mile wide. I judged by the look of the river from the buoy ashore on the Pennsylvania side. I did not see the buoy that night.

Our propeller drew about 6½ feet of water; I judge the barge drew about the same—from 6 to 6½ feet. I did not bring the barge to the city. The barge I believe came up; I saw her lying up town, this side of Reaney & Neaffie's shop, yesterday, before I was examined. I did not go on board.

I judge she was struck about 30 feet from her stern.

I have stated accurately all that I recollect with regard to the collision.

Re-examined by Mr. Wharton.

I had been down the river very frequently before. I have been engaged as captain in command of a steam-tug some four or five years to the best of my recollection, and nine months in each year; in that time I have been running from New York to Baltimore on this route.

Re-cross-examined.

I have been in the employ of this line all that time. We never run when we can't see.

W. CUNDIFF.

Sworn on the first and subscribed on the second September, A. D. 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

Mr. Wharton offers in evidence a certified copy of the charter of the libellants, contained in an act of the legislature of Maryland, dated March 2, 1848, marked B.

John Moore, being duly sworn, says:

I live in Cecil county, Maryland. I have been following the water the last six or seven years. I was on board the propeller Artisan last month. She was from New York, bound to Baltimore. I was wheelsman under Capt. Cundiff. We had the barge Groves in tow. I was wheelsman at the time of collision.

Mr. Campbell objects to the witness as incompetent, as liable to the libellants.

William Cundiff was captain. The first pilot was below; his

name is James Foster. It was his watch off at 12 o'clock. The Artisan and the barge were both loaded. The length of the hawser connecting the two vessels, I should judge, was from 30 to 35 fathoms.

The collision occurred about two miles below Marcus Hook, about abreast of the buoy, and I should judge between one and two o'clock in the morning. The night was cloudy; the wind, I think, was from the westward, a light breeze. The night was tolerably dark. Once *and* a while it would clear off and you could see the stars.

Q. Could you see anything on the water; and if so, what distance?

Anything without a light, do you mean? You couldn't see anything at a great distance without a light. I believe you could see anything on the water at the distance of a quarter of a mile, without the object having a light. We were on the Jersey side of the channel. We were steering from Marcus Hook down to the Christine light, leaving Christine light on our starboard side. We passed some vessel before we came in collision with the ship, the steamship. We seen the steamship on our starboard side, coming up the Pennsylvania side. I first observed her, I should judge, five or six minutes before the collision. I seen her coming up on the Pennsylvania side; I thought she was entirely out of our way, too far, so far that I didn't notice her much; when I noticed her again I didn't pay any attention to her lights; she was hauled across the river; when we seen her coming we starboarded our helm; I was directed by the captain to do so; I thould judge the steamship was within 4 or 500 yards off us when he directed me to do that; she was coming on to us pretty fast. When I put my helm to starboard I saw the steamship approaching us over our starboard side. I was in the pilot-house; it stands forward, about 25 feet from the stem, I should judge. The steamboat was approaching at an angle across the river; I looked out of the starboard window on the starboard side; I seen her coming right for us; this was just at the time we starboarded our helm.

Q. As near as you can judge, if you had not starboarded your helm would the Artisan and steamship come together; and if so, where would the steamship have touched the Artisan?

If we had not starboarded our helm, the Artisan and steamship would have come together; I believe the steamship would have struck her about the boiler, about the after part of the boat.

Q. What was the effect of starboarding your helm?

So as to get away from her; that was the result of it; she came abreast of our bow about 20 or 30 yards off, on our starboard side; then she came in collision with the barge, aft, on her starboard side; the barge sunk. I observed no change of movement in the steamship; I heard one bell sounded in the engine-room of the

steamship after we put our helm to starboard; I heard no bell before that.

Q. Had you ported your helm at the moment when you starboarded it, the steamship doing just as she did, what would have been the result?

She would have struck the Artisan. If we had ported our helm I judge she would have struck us on the larboard side, betwixt forward and midships. It was not one-half a minute after I heard the bell rung, that the two vessels came together. The first pilot was on the deck of the Artisan immediately before. Captain Cundiff was on the deck immediately before the collision; a man who attends to trimming lights, Chester Queen, and myself, and no one else; I mean the first pilot was on deck immediately before we came on watch.

Cross-examined by Mr. Campbell—subject, &c.

I am 24 years of age. The pilot-house is square; the windows were down; I don't know anything about a steam-engine; it was an ebb tide; it had turned about one-half or three-quarters of an hour before; we had the tide with us: I judge we were making seven or eight miles an hour through the water. Our route from New York is through the Delaware and Raritan canal, then down the Delaware, then through Delaware and Chesapeake canal and bay. I saw the buoy. It takes us four hours to go through the Chesapeake and Delaware canal. When I first began to pay particular attention to the steamer, I saw her through the right-hand window of the pilot-house; I can't say for certain whether I saw her lights when I first saw her. When I seen her coming right for us, I didn't pay any particular notice to her lights; I was busy at the wheel; before that I recollect the red light and bright light; that is all I recollect seeing.

Q. Just before you saw the steamer, had you passed two vessels at anchor?

I don't recollect passing two; I recollect one—it was a schooner; she had a light up; I judge it was in her rigging somewhere; we passed to the left of her, on the Jersey side of her; I speak certainly of that. We passed that schooner two or three minutes before I saw the steamer. I don't recollect passing a schooner on the Pennsylvania side of her. I judge it is two miles from one shore of the river to the other at that point.

JOHN MOORE.

Sworn to and subscribed, Sept. 2, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

Chester M. Thwing, being duly sworn, says:

I have been following the business of the water for the last seven years; I live in Gardiner, Maine. I was on board the Arti-

san at the time of collision in August last. I was watchman on board the boat; take care of the lamps, and see that everything was right on board the boat. I recollect the collision with the Keystone State. It occurred, I think, on the 18th of last month, between one and two o'clock in the morning, on the Delaware river; but as for the situation of the place, I cannot say, for I am not acquainted with the river. Captain Cundiff, John Moore and myself, were on deck at the time and immediately before the collision. The captain was standing on deck, on the forward part of the wheel-house. The wheel-house is on the forward part of the boat. He was the captain of the boat. John Moore was in the pilot-house, steering the boat. I was standing in the after part of the pilot-house, nearly amidship of the boat. We had two lights, one forward and the other on the flag-pole aft.

The first I see of the steamship was when she was coming of an angle across the river. I was standing behind the pilot-house when I first saw the steamship. I saw her coming at an angle across the river. I looked over the starboard side of our boat to see her. The wheel-house is some higher than my head, so that you can't look over it. I saw her coming towards our boat, the propeller. I heard the noise of her paddles.

Q. About how near do you suppose or judge she was when you first saw her?

A. I suppose about 200 yards off.

Q. How was she coming through the water as to speed?

A. I should judge she was going from nine to ten knots through the water when I first see her.

Q. What did your boat do, if anything?

A. Kept on down the river, sir.

Q. Did the Artisan make any movement from the time you saw the steamship?

A. Not that I know of. I was not in the place to see if the man shifted his wheel or not.

Q. Did you observe any movement in the steamship?

A. Not as to changing her course. She was coming through the water all the time.

Q. Did she and the Artisan come together, or did they pass?

A. They passed, I should think about fifty feet apart when she passed our stern.

Q. What happened then?

A. In a few seconds after she passed us she struck the barge. Immediately she struck the barge they rung the bell on the steamship to stop the wheel. Our tow-line parted immediately. Our captain struck a bell to stop our engine, then we backed round, rung the bell to start our engine to go towards the steamship. When we got up to the steamship's bow the barge was right under her bow on the starboard side of the steamship, or nearly under her bow.

After we got pretty close to the steamship our captain rung the bell to stop the engine and back. After we had backed off some distance, the engine was stopped again, then the steamship backed off from the barge. Our captain then hailed the steamship, and wanted to know if any of the men of the barge were hurt or lost. He was answered by some one on board the steamship that there were none. Then some one on board the steamship hailed our boat, and said we had better get a line to the barge and tow her ashore; that she was sinking as fast as possible. Then they said they would send the barge's men to us in their boat. After we had towed the barge ashore we got lines out, run them ashore, and made them fast to a tree, then put the lines on the barge's windlass, hove taut on the lines, so as to keep her from drifting off. The night was a fitful, cloudy night, clouds passing all the time. I didn't notice any moon; sometimes it was pretty light, but at the time of collision it was dark. It was not over a half minute from the first time I saw her until the collision.

Q. At the time you first saw the steamship coming, as you say she was, what, in your judgment, if anything, would have prevented the collision?

It is my candid opinion that if the man at the helm of the steamship had put his wheel hard a-starboard, which I think was not, and thereby given the steamship some sheer to port, that she could have easily cleared the barge without any trouble at all.

Cross-examined by Mr. Campbell.

I am not quite 21 years of age.

Q. Were you standing with your back to the wheel-house?

I don't recollect exactly how I was standing; I was standing in such a position that I could see the steamship coming across the river.

Q. Is the back of the wheel-house solid?

There is windows in the back of it, where it is raised up above the other house. They are about a foot above my head. The pilot-house is about eight or nine feet wide. I was standing near amidships of it. I have told you all that I heard said. I had not been in that position a great while; I had been walking the deck. I had been in that position about two minutes. We fastened the barge on the starboard side of the river going down. I saw the barge in contact with the steamer's bow. The men were sent on board to us. As I looked at the steamer from behind the pilot-house, I saw a number of lights, I can't say how many. Our forward light is about six feet above the water-level.

Re-examined.

Our after light is some 25 or 30 feet from water-level.

CHESTER M. THWING.

Sworn and subscribed, Sept. 2, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

September 15*th*, 1857.

Present, Mr. Phillips, Mr. Wharton, Mr. Keyser, Mr. Johnston.

By Mr. Phillips:

James Foster, being duly sworn, says: I was on board the Artisan at the time of collision; I was pilot, first pilot; there was a second pilot. I have been accustomed to navigate the Delaware river, about six years. I turned into my room that night somewhere near 1 o'clock, leaving the second pilot in charge; I had the watch below; when I turned in, it was starlight, no moon; it had rained in the early part of the evening; it was then clear; I can't say exactly what course we were steering when I turned in; everything was going right; my room is on the upper deck. After I went into my room, my attention was called to the movement of the wheel-chains; it was a quick movement; I got up, opened the door and went out; I went out on the starboard side; our vessel was not exactly on the course she was on when I turned in; she was heading more to the eastward. I saw the Keystone State; I judge she was in the neighborhood of 100 yards from our bow; I judged she was steering about E., or E. by N. Our steamer had lights, which should, I suppose, be seen from the Keystone State; I can't tell whether the helm of the Keystone State was a-port; she passed the Artisan; she came in on our starboard side; after she passed the Artisan, she came in collision with the barge A. Groves, which the Artisan had in tow; I shouldn't suppose it was over half a minute from the time I came out until she struck the barge; I think she might in that time have gone clear of the barge.

Steamboats, generally, immediately obey their helm. The channel, I suppose, is about three-fourths of a mile wide there; we were in the channel nearest to the Jersey shore; I can't say how far out; I suppose two-thirds of the way to the Jersey shore. I saw the Keystone State coming; I did not see her back at all; I don't recollect seeing her paddles, or the motion of them. I can't say whether she was backing or going forward; I think her wheels were moving forward. I heard one bell rung; it was to stop the engine; the signal bell—that is all I heard; that was just about the time she struck the barge; I can't say whether it was immediately before or immediately afterwards. I should suppose there is a difference between backing, and backing hard.

Q. Could she have been backing hard at that time?

I should think not; her wheels were not moving fast at the time.

Mr. Wharton:

When I first stepped out of the door, the first thing I saw was the steamship Keystone State; she was coming, I suppose, about an east course; she was heading about for our bow, on our starboard bow; if she had touched us then, it would have been between midships and forward. I think she might have sheered and cleared the barge; if she had sheered, I think she could have cleared; she could have done it by putting her helm a-starboard.

Cross-examined by Mr. Keyser.

I have been running on the river six years, and have been employed as a pilot about four years; I am not a branch pilot; I am a pilot without license. The steamer was about 100 yards from me when I was wakened up, and within half a minute the collision occurred.

Q. If the steamer had been backing at the time you first saw her, would she, in that condition, have obeyed her helm?

I can't say; I have never had any occasion, in my experience, to test the matter, whether such a change could be made in half a minute.

Q. If the two vessels had been approaching, bow and bow, when you came on deck, would that change of direction have produced the collision on the starboard bow?

Yes, sir. I can't say positively whether the steamship was backing or going ahead.

Re-examined—Mr. Wharton.

We are not required to have a license as steam-tug pilots on the Delaware; I believe not.

Re-cross-examined.

We never carry passengers; at odd times we take one on; we don't charge any passage; we carry a friend on; something like that.

Re-examined—Mr. Phillips.

The propeller is not a passenger boat; there is no accommodations for them; it is against the instructions of the company to take passengers.

JAMES W. FOSTER.

Sworn to and subscribed, Sept. 15, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

Thomas Dearing, being duly called, says, in answer to question by Mr. Phillips, I have a release from the company, and now produce it, marked C. F. H.

The witness is sworn. I was helmsman on board the Groves at the time of collision; I was steering; we were in tow of the pro-

peller Artisan; I was on duty as helmsman at the time of collision; it was a dark, cloudy night, sometimes cloudy, sometimes a little brighter; we had one light on our barge, front of the wheel-house; our propeller had lights, I suspect two; I believe she carries two lights; one was on the stern, that we steer by, and one on her bow; I can't tell whether either, or which, were on a flag-staff; there was no one else on deck of the barge but myself; we were attached to the propeller by a rope; I saw the Keystone State before the collision; when I first saw her she might be a mile off, or more, I can't exactly tell how far; I couldn't then tell what direction she was heading; she seemed to be on the Pennsylvania side coming up the river; when she came close by, she came right across the river towards the Artisan; she headed right across the river; she ran into us, the barge; she cleared the Artisan and run into the barge; she run into the barge forward of the after gangway.

When I first saw the Keystone State the Artisan was nearest the Jersey shore; I couldn't tell what course she was steering; her head was laying on the Jersey shore; the Keystone State as she approached sheered away on to the Jersey shore; I sheered immediately afterwards the same as the propeller, to the best of my opinion, I believe; I was going the same direction as the propeller when the steamer struck us; I might have been a little closer to the Jersey shore at the time; I can't exactly tell, but to the best of my opinion the tow-line was taut; I was not looking at it at the time; I was watching the movements of the propeller at the time; I could give a good opinion about it; I was following the movements of the propeller closely.

I can't exactly tell how much room there was between us and the Pennsylvania shore; I don't know the channel there; I guess there was more than one-half the channel between us and the Pennsylvania shore; I know there was more than one-half the river; all the barge men has to do, is to follow the propeller.

Mr. Wharton:

Before we sheered and after, the steamer was coming over our starboard side.

Cross-examined—Mr. Keyser.

I don't know how wide the channel is; I couldn't exactly tell whether we were in mid-channel or on either side; I know I was steering straight after the steam-tug; the Keystone State might have been a mile off when I first saw her; I can't say whether she was in mid-channel or not; I can't say whether, when she changed her course, she was going out of the channel or not; if she had followed her course I expect she would run aground; she was then heading towards the Jersey shore.

Q. When you meet a steamer in mid-channel of the river, how do you head to pass her?

Keep to the right, I believe. The Keystone State was not running across the river when I first saw her; she was coming up the river when I first saw her; I couldn't tell which way she was heading; I couldn't exactly tell how near she was when she changed her course.

THOMAS DEERING.

Sworn to and subscribed, Sept. 15, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

Lewis W. Jouy, being duly sworn, says:

Mr. Phillips:

I was on board the Artisan at the time of collision; I was fireman; I was sitting in the window when I first saw the Keystone State; the window was in the engine-room on the starboard side of the propeller; I was sitting in the window with my head lying on my arm; I was sitting on a stool looking out; I was looking towards the bow of the boat; I saw the Keystone State; I guess she was about 300 yards off—that is as near as I can come to it; I can't exactly tell the distance; I don't know anything about the river, and I don't know whether our boat was nearer one side or other; the Keystone State was coming towards us; I thought she was coming pretty fast; she was coming right down towards the window where I was sitting; I went away from the window; the Keystone State was pretty close on us then; when I walked away from the window I didn't see any more of the matter; did not see her strike the barge; I went away of my own accord across the engine-room to my furnace; I saw a light on the Keystone State, (2); one was red, and the other bright.

LOIS W. JOUY.

Cross-examination declined.

Sworn and subscribed, Sept. 15, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

Nathan Fortner, being duly sworn, says:

I was on board the Artisan at the time of collision; I was engineer, and was on duty at the time; I saw the Keystone State; she was on our starboard side when I first saw her; she was then 2 or 300 yards off; I was in the engine-room; I saw her from the starboard side window; the fireman called me to look out of the window; he saw it; I then saw the Keystone State; I saw a red light on her—I am certain of that; she was in motion; I couldn't tell which way she was going, whether backwards or forwards; when I first saw her I couldn't tell which way she was heading; I

couldn't exactly tell what direction the red light was from us; I saw it out of our starboard window; I saw no other than the red light; I can't tell in what direction the steamer was coming, if she was in motion; I went to attend to the engine, and stopped her as soon as the bell rung to stop; the bell was rung before the steamer struck the barge; it was not an hour, it was not a minute; near about half a minute; I couldn't tell then where the Keystone State was; I couldn't see out; when I looked out of the window and saw her, her wheels were working; I can't say whether backwards or forwards—just moderately; if she was backing it was not hard backing; if she was going forward she had not full speed—as if she had been slacked; I have been going on Philadelphia and New York boats three or four years; my only duty was to attend to the engine; I returned to the engine-room, so that I might be there if anything happened; I thought so at the time.

Mr. Wharton:

I did not see the Keystone, after I returned to my engine-room, until after she had struck the barge; we didn't feel the shock of the blow; I only know she struck from what they told me; I don't know exactly when the steamer struck the barge; I didn't know that she had hit the barge, but I expected the bell was rung on account of the steamship hitting the barge; I expected it, but didn't know.

his
NATHAN ⋈ FORTNER.
mark.

Cross-examination declined.

Sworn to and subscribed, Sept. 15, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

November 14, 1857.

Mr. Phillips, Mr. Keyser:

Joseph L. Parry sworn:

I am an engineer; have been so since 1832; I was engineer on board the State of Georgia; I know the Keystone State, and her engine, and its qualities; going at the rate of ten miles an hour, her engine would make fourteen revolutions a minute, going ten miles through the water.

Q. Going at the rate of ten miles an hour, making 14 revolutions a minute, after the bells had rung to slow, stop and back, how many revolutions back would she make before she stopped, or began to back?

She would not stop in less than 12 revolutions.

Q. About how many backward revolutions would she thus make

in going about 180 feet—that is, she still having her headway, and the engine being reversed?

In going ahead, she wouldn't make but one and three-quarters—no, it would be two and a half ahead, in going that distance, and in backing she wouldn't make but one. I have here made a little calculation, and I find she would make two and three-quarter revolutions going ahead—180 feet.

Cross-examined by Mr. Keyser.

I was employed on the State of Georgia at one time, from August, 1854, to February, 1855, if I recollect the years. I left the vessel on account of disagreeing with the captain; the company sided with the captain in that disagreement. I was never employed on the Keystone State. I know the character of her engine, and am well acquainted with it; I never worked it; I saw it built, and saw it after it was built; saw it worked; I saw it worked only at the wharf.

Q. Your acquaintance, then, is based upon the fact that you saw it worked at the wharf, and that you saw it built?

A. Yes, sir.

Q. Does the time in which a vessel will back depend upon the engine, or its power?

A. It does, in part; the principal part.

Q. Will the time in which a vessel will back depend in part upon *upon* the time which elapses between the giving of the orders and the time of execution?

A. It does, very materially.

Q. Will the time in which a vessel will back depend somewhat upon the state of the tide?

A. When the ship is under way the tide does not affect the motion of the wheels.

Q. Do I understand you to say that a vessel will back against the tide with the same facilities she will with the tide?

A. Precisely.

Q. Will she go through the same space of water in the same time?

A. She will, exactly, but not by the land; she will go through the water precisely the same. Passing through the water, and passing land, is two things.

Q. Be good enough to explain what you mean by this last answer?

A. A vessel goes through the water in proportion to the speed of the wheel, no matter which way the tide is running; the tide only affects a vessel in passing land.

Q. Can you run a vessel through the water equally fast against the tide as with the tide?

A. Yes, sir; the revolutions being the same in both cases going

through the water, but not by the land the same. One way she would have tide to help her; and the other way, against her.

Q. With regard to a body at rest in the water, will a steamer approach more or less rapidly according to the tide?

A. If the vessel is at anchor, it will make the difference of the tide; it will make two miles an hour difference in the Delaware river.

Q. Will a vessel go through the river in a shorter or longer time at different stages of the tide?

A. A vessel will go from here to Cape Henlopen with the tide, quicker than with the tide against her.

Q. Be good enough to explain how, without knowing the rapidity or the slowness of the revolutions, a vessel would require a certain number of revolutions to reverse her motion in the water.

A. A vessel in going ahead through the water, at the rate of ten miles per hour, goes 880 feet in a minute, or $62\frac{85}{100}$ feet in one revolution. Now, 14 revolutions will drive the ship when under way, 880 feet. If we start the ship from the wharf, 14 revolutions would not drive her more than three-quarters that distance, or 660 feet. I don't think it likely the ship could be backed any faster than she could go ahead.

Q. Be good enough to explain, how, without hearing the orders to back, or knowing how they were performed, that, on that occasion at which you were not present, you can state how many revolutions did back the ship.

A. I calculate the order was given as quick as possible, and that the wheels were turned back as quick as possible.

Q. Then I understand you to say, that your evidence is based upon your calculation of what was done on that occasion, and that you have no personal knowledge of what was done on that occasion?

A. It is formed upon my calculation.

JOSEPH L. PARRY.

Sworn to and subscribed, Nov. 14, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

Release. (C. F. H.)

The New York and Baltimore Transportation Line do hereby release and forever discharge Thomas Dearing, the wheelsman of the barge A. Groves, jr., from all claim, responsibility and liability, for or by reason of the collision which occurred in the Delaware river, in the month of August, anno Domini eighteen hundred and fifty-seven, between the steamship Keystone State and the said barge A. Groves, jr., and all the consequences thereof.

Witness the corporate seal of the said company, at Philadelphia, this fourth day of September, anno Domini eighteen hundred and fifty-seven.

H. L. GAW, [SEAL.]
Sec. and Treas. New York & Balt. Transp. Line.

In the District Court of the U. S. in and for the E. D. of Penna.—
In Admiralty.

Deposition of witnesses e. p. Libellants.

THE NEW YORK AND BALTIMORE TRANSPORTATION COMPANY
vs.
THE KEYSTONE STATE.

November 28, 1857.

Present, Mr. Wharton, Mr. Keyser.

Samuel C. Beideman, being duly sworn, says:

I was a member of the firm of Beideman & Co., boat and ship builders, of Philadelphia. We built a barge called the A. Groves, jr., for the New York and Baltimore Transportation Line, in 1853; I can't specify the month; it was the early part of 1853; the early part of July, I think. She was built out of good Delaware oak, double frame, 5 inches, which made her frame 10 inches; her futtocks—middle futtocks, were made out of knees of natural growth; her frame was, I am not certain whether 6 or 8 inches apart—I think 6 inches apart, which is extraordinary close; she was well fastened; her iron fastenings were from $\frac{3}{4}$ to $\frac{5}{8}$; plenty of it in her; her beams were 10 by 10, Carolina pine; they were well kneed, and the knees were well fastened; her carlines were, I think, 4 by 6, yellow pine. The workmanship was done in the best manner, and the materials were the best.

Mr. Keyser declines cross-examination.

SAM'L C. BEIDEMAN.

Sworn to and subscribed, Nov. 28, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

Jacob Birely, being duly sworn, says:

I am a ship-builder, of the firm of Birely & Lynn, Philadelphia. We repaired the barge A. Groves, jr.; on the 29th August, 1857, we hauled her out on the ways, and completed the repairs about the 10th September. She was perfectly sound, and in repairing her we did not take out a single rotten timber; I found it better than I expected, remarkably good. Independently of the extraordinary damage she had received, she was perfectly sound. We have repaired her twice, and found her sound on both occasions.

Witness produces diagram, drawn by his partner and himself, indicating the condition of the boat when she was brought for repairs. No. 1 is the deck plank; No. 2 is the side view; No. 3 is the dead flat crane. The diagram lines on No. 1 show the apparent direction of the blow upon her, which reached very near the centre, at the after beam of the after hatch, carrying away the after beam, carlines, knees, side of the boat, and the deck plank. The jagged marks on the deck represent the extent to which the deck plank was started up.

No. 2 exhibits the promenade deck, main rail, plank shear, streaks of plank, and also where the blow came, which was on the starboard side. The cabin was knocked over from starboard to larboard.

No. 3 is a frame in the starboard side, where the blow was struck; it shows the sound frame, as it was before the blow, and also the broken frame, after the blow.

Q. Could such a damage, as you have just described, have been caused by that barge moving herself at the rate of 6 or 8 knots an hour, and coming in contact with a steamship which was not in motion?

No, sir, I think not; not in the condition the barge was in, laden with goods, piled up in the lower hold. The barge was thoroughly built, well fastened in the place she was struck; the goods being piled in the lower hold, I think it was an addition to the strength of her.

Our bill—the carpenter's bill—was $593 $\frac{31}{100}$; that was a fair charge; besides that, there was the railway bill, joiner's bill, and the painter's, and the raising and bringing her to Philadelphia.

Cross-examined by Mr. Keyser.

I never followed the sea; never been employed in any capacity on board of vessels, nothing more than in repairing them; I never have witnessed a collision.

I can't say that I exactly know with what force a vessel going 6 or 8 knots an hour would strike a vessel at rest. I can form an opinion from the stability of the boat, and the manner the goods are piled in her hold, from the strength of timber; nothing else. We had repaired this barge before the collision, I can't say exactly how long; I suppose 15 months. I could tell exactly from our books; she was then struck by some vessel. We had caulked her some little before that.

JACOB BIRELY.

Sworn to and subscribed, Nov. 28, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

December 8, 1857.

Present, Mr. Wharton, Mr. Keyser.

Edward H. Pennington, being duly sworn, says:

I reside in Baltimore. I am delivering clerk of the libellant, in Baltimore.

Witness produces paper marked XX, which, he says, is a manifest of the goods in the Artisan and Groves, received in Baltimore by me, by mail. I went on board the Artisan after she reached Baltimore, and took this paper with me; I found all the goods on board the Artisan, that were in this paper. My business was to deliver the goods to the parties to whom they belonged, in Baltimore. I did so. The paper is dated August 15, 1857; we received it on the morning of the 18th.

We received the remaining goods, or such as were received, by the barge Winslow; they were damaged; you might say, that all were damaged. The Baltimore goods, I believe, all came to hand; I mean the goods consigned to Baltimore; I can't speak as to the goods consigned elsewhere.

The place of consignment is always marked on the manifest.

All the goods which, by the manifest, were deliverable in Baltimore, and which didn't come by the Artisan, were all more or less damaged. Those by the Artisan were in good order.

Cross-examined by Mr. Keyser.

The goods received by the Artisan are designated by the manifest, beginning on page 2, continuing thro' 3d and 4th, a part of the 2d, and part of the 4th. I have designated where they commence, and where they end, on pages 2 and 4. These goods came in good order.

These goods by the Winslow are on page 1st and 2d, to the mark; that was all the Baltimore goods by the Winslow. These goods, I presume, were taken out of the Groves; I know they were on the Winslow; I never saw them on the barge A. Groves; I examined the goods brought by the Winslow; I delivered them, and couldn't help but see their condition. I mind no special examination beyond that. They were in such a condition, that you could see what they were by a glance; they were soaking wet.

Re-examined.

Some goods, on this manifest, came into Baltimore after the arrival of the Winslow; they came at various times, in lots, as they could be got out of the boat; they were all damaged.

Re-cross-examined.

These goods, I presume, came out of the Groves; they were some of the same that belonged to the manifest; there were some pack-

ages received; there was one bale, I now remember, some kegs of saltpetre, rather empty kegs; there was some cheese; I don't remember the articles specifically.

Re-examined.

Those goods I delivered were so delivered by this manifest, and I found them marked in that paper, and I delivered them as described in the manifest. The packages were wet as water could make them; were muddy, water running out of them when hoisting them out of the boat.

EDWARD H. PENNINGTON.

Sworn to and subscribed, Dec. 8, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

Henry W. Shriver sworn.

I live in Baltimore; I am forwarding clerk of the libellants at Locust Point. The papers marked XX are the manifest of freight from New York by the Artisan and Groves Aug. 15, 1857. I first saw the manifest on the 18th August in Baltimore; I transferred the freight according to this manifest, which was consigned to the B. & O. R. R. at Locust Point; part I got from the Artisan and part from the Winslow. The consignment to B. & O. R. R. appears on the manifest, under head of consignees. Part of the freight consigned to the B. & O. R. R. was not found; the other part was corresponding with the manifest. The red chalk marks that I have ticked off indicate that the goods were received from the Winslow—that is, a greater portion of them; all were damaged more or less. Those ticks indicate all the damaged goods consigned to the B. & O. R. R., and they all came by the Winslow; all that came by the Artisan were sound. The chalk marks appear on pages 4 and 5. I had nothing to do with any other goods than those consigned to the Baltimore and Ohio Railroad. I found none to the consignment of the R. R. which were not damaged; they were wet; a great majority of the goods were so much damaged by water as to be worthless—a majority of them, groceries, teas, coffee, &c.

Cross-examined.

I marked those received by the Winslow; part of these goods by a former boat, and is so marked on page 5th; no other goods on this manifest were received by other vessels—I mean, received by myself. Of one lot, on page four, 10 bbls. merchandise consigned to Mills & Kline, Cincinnati, were lost—that is, were not received by me.

H. W. SHRIVER.

Sworn to and subscribed December 8, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

Calvin H. Barker, being duly sworn, says:

I raised the barge Groves; I was employed by Mr. McLean; I made my bill out to the Balimore and Philadelphia Propeller Company; I think I went down on the 18th of August; I took apparatus, lighters, and men with me; I found her about a mile and a half below Marcus Hook, in the river Delaware, on the Pennsylvania side; at high water she was not quite covered on her bow; at low water we could walk all over her deck; her stem pointed to Pennsylvania side and stern to Jersey; she lay rather inclining; she was struck on her starboard side at the after gangway, about twenty feet from her stern-post; I think she was over eighty feet long; it was a cut several feet long on the outside, and cut into near the corner of the cabin, deck, beams, and knees, all carried away; I raised her; we worked at the goods some three days, putting them on board the barge called the Winslow; she had all the captain would allow to be put on board; he went down the river with her; he said she had load enough on her; there were a few boxes and some coffee left behind; they were hoisted out when the barge was hanging on my chains and put on board a steamboat at Vandusen's wharf; I raised her with the remaining goods on; I drifted up with the tide as far as the fort in two tides, and employed a steamer to tow me up to Kensington; the remaining goods were taken out and placed on the Carter; they were brought to Chestnut street; that is the last I saw of them.

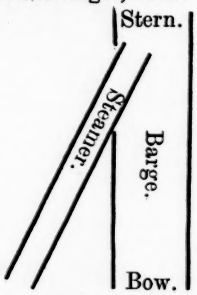
When I raised the barge the goods in her were in boxes and bales, broken open; all in the vicinity of where the steamer struck was a regular smash, candles broken up, coffee-bags and bales, and boxes, all broken and torn—that is, when we first commenced; the first thing we took off was a quantity of meat; all that were not broken up by the smash of the steamboat were wet; the water was not very muddy on the inside, they were only wet; cotton cloth that was broken up came up very white and nice out of the water.

What was marked sugar there was nothing in the barrels; the coffee-bags were all broken in bulk rather; there was a drainage from the sugar-barrels, that showed there had been sugar in them; the domestic goods, where the bales were broken, we corded together, and covered it with canvass; we did the same with some woolen goods; those goods that required fixing we fixed before it went on the Winslow as well as we could; some of the boxes were taken out without being broken at all; there were drifting boxes about; some men brought some cargo that had landed on the shore; a man brought some cheese aboard that he had picked up the night the barge sunk; I saw nothing but what was perfectly sound in the barge, independently of the accident; I cut through sound wood; I should suppose she was a very good barge.

Cross-examined by Mr. Keyser.

I was down there from Thursday till Sunday; I think I went on Wednesday. I found the Winslow there when I got there; I went on board of her; was on board of her most of the time until she left; she came down empty, or was empty when I got there. I worked a good while at the place where the barge was broke; we hoisted half the cargo out of the place where the deck was broke. I examined her all over to see if I would buy her, as it was said she was to be sold. I did not see any appearance of worn plank about her. She was not entirely a new boat, but she was a good sound boat. I sawed off some of the ends of the plank that was doubled round by the collision; it had a good appearance. I looked at her all over; I didn't see that the planking was worn. I sawed off some of the plank shear several feet down to get the broken ends out of my way.

The blow was kind of obtuse angle, thus:



As the steamer struck the beams, gangway, and knees, and all the structure of the boat so far as she went into her; when it struck it forced one side in and the other nearest the stern out, and turned it round.

C. H. BARKER.

Sworn to and subscribed Dec. 8, 1857.

CHARLES F. HEAZLITT,
U. S. Commissioner.

In the District Court of the U. S., in and for the E. D. of Penn'a.—
In Admiralty.

THE NEW YORK AND BALTIMORE TRANSPORTATION COMPANY
vs.
THE KEYSTONE STATE.

Depositions of witnesses on behalf of respondents, taken before Chas. F. Heazlitt, United States Commissioner, at Philadelphia.

September 4, 1857.

Mr. C. S. Keyser and Mr. St. George T. Campbell for respondents; Mr. H. M. Phillips and Mr. G. M. Wharton for libellants.

George W. Dougherty, being duly sworn, says:

I am captain of a tow-boat; have followed the water and had charge of a boat about twenty years. I have been employed on side-wheel boats and propellers. I have been employed on the Delaware river 18 years; and two years, next month, out of Savannah.

I was sitting in the mess-room at the time the bells rung. I was on board the Keystone State at the time of collision with barge A. Groves. It was on the 18th August last, in the morning, in the neighborhood of one o'clock, about a couple of miles below Marcus Hook, I think, as near as I can come at it. I was in the mess-room at the time the bells were rung to stop our engine. I went immediately right out on deck. I saw the propeller go by; the Keystone State was backing; she made some seven revolutions back. I didn't see the barge until after she struck. That is all I know.

The propeller went on the Keystone State's starboard in passing us. When I went up to the upper deck, the wheel of the Keystone State was a-port; she was heading about a point or a point and a half eastward out of her course. The propeller was nearly amidships when I saw her; she was then bearing eastward towards Jersey. Her helm was put to starboard, to produce that direction towards Jersey.

At the moment I came on deck, the Keystone State was heading right up the ship channel; she was heading then to the eastward; there is a kind of a cove there; there is a cove below Marcus Hook; a vessel coming down would think she was on the western shore. I am acquainted with the channel of the river there. The effect I have spoken of is produced by the Marcus Hook bar. Coming up from Marcus Hook, you come out about E. N. E.; the channel is rather crooked there.

Q. What is the usage in regard to steamers passing each other?

To keep to the right.

Q. Is that a universal rule, under all circumstances?

Yes, sir. I have no connection with the ship at this time, nor have I any pecuniary interest in the result of this suit.

Cross-examined by Mr. Phillips, (subject, &c.)

I was a passenger on board the Keystone State. I am not, and was not employed on her. The mess-room is just forward of the wheel-house, on the main deck. The chief mate; engineer belonging to my boat, a tow-boat; his name is Peter ; he was a passenger; no one else, I believe. We were sitting there talking.

The bells striking so quickly, I knew something was wrong, and I went right out. He rung one to slow down, one to stop, and two to go back. The night was starlight; it wasn't very dark; not much wind of any kind; what there was, was about north; the tide was ebb; I guess it had been ebbing about three hours; it was pretty well down. I don't calculate that she was going over ten miles an hour before the bells were rung, and at the time they were rung. The bell to reverse was rung right after the other; she was reversed about as quick as I ever saw a large engine reversed. I cannot tell how many revolutions such an engine would make before she would obey the backward motion. The propeller had passed when I came out, and was abreast of the mess-room door, not quite amid-ships; clear of our bow. I can't tell how we were steering when I first came out, but when I went on the upper deck she was steering E. N. E.; after she lay there awhile, after the collision, and while she was getting the men off, she canted her head to the westward. I can't tell you exactly which way she was steering when I came out of the mess-room. She is steered by a wheel and rope. I heard the pilot say "port," as I was going up, and heard the motion of the change. I did not see them strike the barge. I did not know the propeller had a tow. I could not hear any change in the course while I was in the mess-room. For five or ten minutes before, I heard nothing of it. I recollect the Keystone State running aground at quarantine; in turning round she backed her stern in, and couldn't get off until flood tide. She was aground there about two hours. The same pilot had charge of her the whole way from the bay to Vine street. We left Savannah on Saturday, the 15th, at 4 o'clock; we kept on without stopping. It is about 800 miles. We had been going faster than we were going at the time of collision; she made as high as 12 knots, I believe. I am going away to-morrow, at 10 o'clock, in the Keystone State.

Re-cross-examined.

I judged her speed, at the time of collision, from the current rate. If an order had been given to change the course, while I was in the mess-room, I don't think I could have heard it; nor could I have heard the motion. The river is pretty narrow at the lazaretto. He got on to a part of an old canal boat sunk there.

GEO. W. DOUGHERTY.

Sworn to and subscribed, Sept. 4, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

October 26, 1857.

Present, Mr. Keyser, Mr. Phillips, Mr. Johnston, Mr. Wharton.

Jeremiah Bennett, being duly sworn, says:

I am a Delaware pilot; have been so 33 years. I have been employed during that time in piloting up and down the Delaware. I am now employed on the Keystone State; have been on her as pilot over three years; once captain of her; I was on board of her at the time of the collision with the Artisan; it was in the neighborhood of one o'clock on Tuesday morning, 18th August, 1857. We were on a voyage from Savannah, Georgia. We left Savannah on the 15th August, the Saturday previous. The night of the collision was partly starlight, partly cloudy; the tide was ebb. Our rate of speed was between nine and ten miles an hour through the water. When I first saw the steamer's lights we were about three miles below Marcus Hook, nearly opposite to Naaman's creek. I saw the lights ahead; they appeared to be two or three miles off, as I judged; I saw lights, two, three lights, pretty much together. We were then about mid-channel, I should judge. The channel is on the western shore—that is, the ship channel. I saw lights ahead; steered for them; in a short time the second mate remarked that he thought one was a propeller coming down. I told the man at the wheel to port, and keep the light on the larboard bow. In a short time I discovered the propeller had altered her course; I ordered the man at the wheel to port the helm, hard a-port. When I discovered she was crossing our bow I stopped the engine and turned it back. The propeller crossed our bow, but the barge she had in tow came in contact. That is about the sum and substance of it. We had kept on our true course from Naaman's creek to the point of collision. We had gone a mile from the time we first saw the light up to the time of collision. The usual rule adopted by steamers meeting each other is to keep to the right. The propeller went the contrary way in this case. There was no obstruction in the channel, or reason apparent why she took that way.

Q. Could she have avoided you at any time between the time you first saw her and the collision by porting her helm?

A. Certainly she could. When I first saw her she appeared to be about mid-channel. We were not more than from 150 to 200 yards apart when I saw an alteration in her course. As soon as I could get to the bells, which wasn't a few seconds, I gave orders to stop and back the ship. Those orders were complied with. The second officer and a man on the look-out on the forecastle were on deck. The captain was sitting behind the house.

Vessels of light draught have plenty of room in the channel at that point. They could go where ships couldn't go. I call ship-channel 4 fathoms water. They can go inside of that channel; inside is, of course, between the channel and the shore. There was no obstruction in the way preventing the propeller from taking what I call the usual course.

Cross-examined by Mr. Phillips.

I didn't know that the steamer had a tow when I saw her. She wouldn't have been going as fast through the water with a tow, as without one. If I was on a vessel with a tow, and wanted to clear a vessel at anchor, I would make more allowance than without one. If I was on a vessel, and wanted to get out of the way of a steamer having a tow, I would make more allowance for her, than if I knew she was without a tow.

The Keystone State drew near thirteen feet water, a little over two fathoms. Any portion of the river at that place was deep enough for her. The ship-channel there is full half a mile wide there, if not more.

The propeller had two lights; I didn't see any on the barge.

I know the propeller changed her course, because she opened her lights. I saw her on a different course, but didn't see her change it. I saw the lights alter; that made me believe she changed her course. I judged she changed her course from the change of the lights; that is all.

Mr. Wharton:

I was not at the wheel; I was alongside of it; close to it. The second mate was alongside of me. We made only two movements of our helm after seeing the lights—first to port, and second to hard a-port.

Re-examined by Mr. Johnston.

When the propeller altered her course she put her helm to starboard. It was about five minutes between the time I gave the order to port, and the order to hard a-port, on our vessel; there was no other order given until stop the ship. It was only a few seconds after the order hard a-port that the order was given to stop the ship. I can't tell how long it was, but the ship had made seven or eight revolutions back before the collision. I can't answer what way the Keystone was heading when we took the barge up the river; I didn't look at the compass.

Q. Towards what shore?

Pretty much head up the river, I should judge. I don't know whether the wheel was shifted or not in backing; I gave no orders. If the wheel had been shifted it would not have been of any effect until the ship had gathered stern board; then it would have brought her head to port, her helm having been to port.

Mr. Keyser:

You could go from shore to shore in the river, at that part of the river. The channel goes from shore to shore below the bar. We may have been above it; you can't tell exactly at night. I should judge by the revolutions back that the ship had stopped in

the water before the collision. I gave the orders by the bell to slow, stop and back; one to slow, one to stop, and two to back. They were given in quick succession, taking only time to unhook her, and then ring to back.

Q. Was the collision occasioned by not making allowance for the tow, or could you have avoided it by making such allowance?

I don't know. I only saw one boat.

Q. Suppose you had seen that the propeller had a barge or barges in tow, would you have done otherwise than ported your helm?

No.

Re-cross-examined by Mr. Phillips.

We run from fourteen to eighteen forward revolutions a minute. I don't know how many she makes running eight or nine miles an hour. The engineer can tell you. The engine was backing at the time of collision. I can't tell you whether the boat had begun to back at the time of collision.

Mr. Wharton:

We were mid-channel at the time we first saw the light, I should judge; and I should judge we were about the middle of the ship-channel when the collision took place.

Re-examined by Mr. Keyser.

When I speak of mid-channel, I mean mid-channel.

JEREMIAH BENNETT.

Sworn to and subscribed, Oct. 26, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

October 27, 1857.

Present, Mr. Keyser, Mr. Johnston, Mr. Phillips.

John Murphy, being duly sworn, says:

I am second officer of the Keystone State; I have been on that vessel about two years; have been in the capacity of second mate eighteen months. I was employed on the Quaker City before I went on the Keystone. I have been on the Delaware river about two years eight months; during that time I have been absent about three months. I was on the Keystone at the time of collision with the barge A. Groves. It was on the 18th August, 1857, in the neighborhood of one o'clock in the morning. I was alongside of the pilot-house. I had been on deck since 12 o'clock; it was my watch; it terminated at 4 o'clock. My duty there was to attend to anything that is to be done—to attend to the pilot's orders; he has charge of the deck. I should judge we were a

little above Marcus Hook when I first saw the lights, which were then about a mile and three-quarters or two miles off; I can't be certain as to the distance at night. We had a look-out; his position was on the forecastle; he was there at that time. The man on the look-out reported the light, but I had reported it to Captain Bennett before he sung out. It might not have been more than a minute after I reported it to Captain Bennett that the look-out sung out. I should judge we were then about mid-channel. There is a bar runs there. We were mid way of the channel. The channel runs up close to the western shore, which is abreast of the bar.

When the look-out reported the light, nothing was done for half a minute, until the pilot saw the position of the vessel, which way she was going; then he told the man at the helm to put his helm a-port. He put his helm to port and opened her out about a point and three-quarters on the larboard bow; in about five minutes from that we discovered that she had shifted her course; we discovered that by the lights; she shifted towards the Jersey shore; then he told the man at the wheel to put his helm hard a-port and stop the engine; he stopped the engine and reversed her back. The propeller passed across the bow; we didn't see the barge until she was close right on to the stem. That is about all, as far as I know.

Our vessel struck the barge well forward on the quarter, on the starboard side. Our vessel was not under headway at the time she struck; she was standing; to the best of my opinion, she was making sternway. I can't tell whether she was backing or not. I should judge we were about quarter of a mile from her when I saw her make this change.

When we made the light we were mid-channel; she was about mid-channel too; if anything, on our larboard bow. She continued on our larboard bow, till the time she made this change.

Our usual way of clearing vessels, in meeting them, is to pass to the right. I don't know whether we could or not have adopted any other course than we did, to have avoided the collision. If the propeller had ported her helm, she would have gone clear of us.

Q. Was there any reason why the propeller should not have adopted the usual course?

I don't know, sir.

Q. Did you see any obstruction in the river?

Nothing at all. The name of our look-out was Henry McDevitt; he is now in Savannah.

Cross-examined by Mr. Phillips.

The tide was ebb; the stars were out; a starlight night. The propeller must have starboarded her helm. It was before that, that the pilot directed the Keystone pilot to put her helm to port. After he saw she shifted her course, he directed him to put the

helm a-port, and stop. Putting the helm hard a-port, did not take the steamship towards the propeller; it took her to the eastern side, and it was towards the eastern side that the propeller had steered. I saw two lights on the propeller; one appeared to be forward and another aft. I don't know that she had a tow. The propeller passed within fifty yards of our bow; she went across our bow, to the starboard side. I heard our bell to slow down—one to stop, and two to reverse. This was after we had noticed she had shifted her course. The collision took place in about two minutes after the bells rung. It took about a second or a second and a half to ring those four bells; they were rung rather faster than when they wanted to stop her, if there was nothing in the way. Our vessel was making, I should judge, about nine miles an hour. She struck the starboard side of the barge. The blow was towards the stern of the barge; she came on an angle towards our bow, and the blow was towards her stern; she lay under our bow until the propeller came up and got hold of her; she was right in front of the steamer. When we let her go, the propeller came up and took her. We were, I should judge, about a mile off when we first ported our helm. I can't tell what course we were then heading, nor what course we were heading when we ported our helm. It is the usual plan to put the helm a-port in meeting a steamer. I don't know why the helm was put hard a-port, when the propeller starboarded. It was the pilot's direction. I can't say that we would have cleared her, if we had starboarded our helm. If both vessels starboarded, it would have taken us as clear as if both ported. It is the proper way to put the helm to port.

Q. If one of the meeting vessels has starboarded her helm, is porting the helm of the other the way to get clear of her?

Well, I can't say, sir.

Re-examined by Mr. Keyser.

Q. Had you any reason to suppose that the propeller would go out of the usual way, to starboard?

No, sir.

JOHN MURPHY.

Sworn to and subscribed, Oct. 27, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

Samuel Ashton, being duly sworn, says:

I was employed on the Keystone State; I am not now in their employ. I was a seaman, and was on board at the time of collision with the barge A. Groves. I was at the wheel; she appeared to be three miles off when I saw her first. I can't exactly say how we were heading then. We were near about the middle of

the channel, as nigh as I can judge; I can't tell. I received orders from the pilot after I saw the light to port the helm; I did so. I kept the propeller on the port side, about half a point, when I first discovered the light; I kept her so, I suppose, ten minutes, until we had got about a quarter of a mile from her, I should judge. Then the order was given to hard a-port, and I done so; put the helm hard a-port.

Q. What was the reason of giving that order?

So that we would clear the propeller. I can't say that the propeller made any change. The order was given, and I obeyed it; it was my duty. Our pilot rung the bells; one to slow her down, one to stop her, then to reverse the engine. There were three bells rung, I know, but I am unacquainted with the meaning. I did not discover that the propeller had a barge in tow, till she got close up. The propeller ought to have starboarded her helm, to have avoided us, I suppose. She ought to have went on the starboard side, I suppose. I suppose five minutes elapsed between the first order to port, and the second order to hard a-port. When two vessels are approaching each other, it is the duty of both to port; and when I said the propeller should have starboarded, I meant ported.

Cross-examined by Mr. Phillips.

I had the light of the propeller in sight all the time; she had two, one high and the other low. I can't say that I knew she had changed her course. The collision happened about four minutes after the helm was put hard a-port. I saw the propeller pass under our bow. I saw a light on the barge in tow.

If the propeller had starboarded her helm, we ought to have starboarded ours.

Port is putting the wheel two or three spokes; hard a-port is putting it all the way over. At times the steamer obeys the helm easily, but it is according to the cargo she has in her. The order to port and hard a-port was before the bells were rung for backing. In the meantime, and while I was obeying the orders, the bells were ringing.

I can't tell how long after the bell rung to slow, that the propeller crossed our bow; it was about two minutes. The vessel was backing before the collision; either she was going astern or or there was no way on her. In backing, putting the helm a-port carries her head to port.

Q. How was it then that she went to the starboard when she had no headway?

When there is no headway on a vessel, she don't go any way.

Q. How was it then your vessel went to the starboard, so that the two came in contact?

That is a mystery to me. I don't know.

I don't know what became of the barge after the collision; she remained there a little bit. I don't know on which side she passed.

SAMUEL ASHTON.

Sworn to and subscribed, Oct. 27, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

October 31, 1857.

Present, Mr. Keyser, Mr. Wharton.

Hiram Griffith, being duly sworn, says:

I am first assistant engineer on board the Keystone State; was on board at the time of collision with the barge A. Groves. It was on the morning of the 18th August, a few minutes after one o'clock. I was in the engine-room at the time of collision. I went on watch at 12 o'clock; I was over an hour there. My attention was first drawn to it by the ringing of the bell to slow down; first one bell, then directly one to stop, and then two bells to back. I obeyed those orders at the time they were given. I suppose there was not a minute of time occupied. We execute these orders by working the engine by hand. You can pretty near tell whether the ship has way on her, going either way, or standing still. At the time I reversed the engine, to work her back, she worked slow; from that time until the two vessels came together, she worked freer; she made some five turns after that. I got altogether six or eight turns from the time I begun to back until they rung to stop backing. The working of the engine would indicate that the ship had not much headway on her, if any, if the ship was not going astern. I don't know that the state of the tide would make any difference in reversing the engine. I suppose she would come to a stand quicker on an ebb than on a flood. The tide at the time of collision was ebb. We were running up the river. When our ship is under headway, and at the rate we were running at that time, which was nine or ten miles an hour, it would take six to eight revolutions to fetch our ship to a stand in the water, if not back her, and we had made from six to eight revolutions before the collision. I received no other orders. I remained in the engine-room until after the collision; no one else was with me in the room. The chief engineer came to the head of the stairs of the engine-room, and told me to work her back hard, which I was doing at the time.

Cross-examined by Mr. Wharton.

There was not a minute between the first bell and the bells to back. I can't say with certainty the length of time. We execute the orders at once. We have a clock in front of us, but my attention was not directed to the clock.

The engine took about two full turns back, and then worked free; from that she worked free. After I worked two or three turns back, which worked slow; from that time until the bell was rung to stop backing, she worked freer. I suppose I got five turns after the engine began to move lively or freer.

I can't give you positively the time between the ringing of the bell to back and the bell to stop backing. I can't give any specified time; it may have been a couple of minutes, or five minutes, I can't say.

The Keystone made about 14 turns a minute, I suppose, at the rate we were running that night.

It does not occupy a minute to unhook the engine if prepared to go back; I think I could do it in half a minute.

Before backing the engine must not be on a centre; it must be off the centre.

At any point between the two centres we can move the engine either way; either back or ahead.

Re-examined.

I obeyed the orders at once, as soon as I received them. The vessel was not on a centre, at the time I commenced.

HIRAM GRIFFITH.

Sworn to and subscribed, October 31, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

Charles P. Marshman, being duly sworn, says:

I am master of the Keystone State; have been on that vessel since the 13th May, 1857. I have followed the sea about 36 years. I was on the Keystone State at the time of collision with the barge A. Groves. I was on the voyage from Savannah to Philadelphia on the 18th August, 1857. We left Savannah the 16th August. Jeremiah Bennett was pilot. My vessel was under his charge at the time. I was sitting at the after part of the pilot-house before the time of collision. The night was a passable fair night; starlight some of the time; the tide was ebb. We were about abreast the lower part of Marcus Hook bar, a little above the buoy. My attention was first called by the ringing of the bell to slow the steamer down, directly after they rang to stop. When they rung to slow down, I got up from my seat and walked forward; they rung to stop, and then to back in quick succession. The first I saw of the propeller she was opening out on the starboard bow, and passed us on the starboard bow; I should think some fifty feet clear of us. I remarked then, she is all clear of us. The next thing I knew was the crash of the barge under our bows. I then myself rung the bell to stop the ship from backing, and gave orders to get the men out of the barge. I believe that is all I know.

The change of rudder affects the stern; if you put your helm to port it carries your stern to port, of course, and if put starboard it changes the stern to starboard, and alters the position of the bow in the same proportion that the stern is moved—that is, it alters the course of the bow in the same proportion that the stern is actually moved. The actual motion in the water is upon the stern, and not upon the bow of the vessel. At the time of the collision, I think, our vessel was backing. I presume we came in collision with the barge, she being in tow, towed by a line astern, and she must have been a long ways to the right of the steamer's track, else we evidently couldn't have hit her. I think if the barge had ported just before the collision she would have hit the bluff of the bow. The barge was steering, I should think, may be a point more to the eastward, when she struck us, than the steamer was. I suppose that her helm was a-starboard to have thrown her in the position she was; I can't tell; I hardly think she could have been thrown into the position she was in when she struck us if she had ported her helm. I should think we struck the barge about two-thirds from forward; I attribute that to her helm being a-starboard—hard a-starboard.

The pilot, second mate, the man at the wheel, a man on the top-gallant forecastle on the look-out, besides several gentlemen passengers, were on deck.

Cross-examined.

I was sitting talking to a few passengers when my attention was first called to the bell. I was at the after part of the pilot-house; I had not seen the barge at all before the sounding of the bell attracted my attention.

Q. Where is the centre of motion in your ship.

The least motion in any ship is about midships; the nearer you are to either end the more motion you have.

Q. Explain if you please how it is, as you say, that the movement of the rudder moves merely the stern of the ship, and not the stem, the latter changing only its direction, but not moving thro' the water as the stern does.

I don't mean that it don't move thro' the water; the only thing is, of course, the rudder cannot affect the stem; the rudder is hanging on the stern of the ship, and if the wheel is put a-starboard, it is moved over to starboard and shoves the stern starboard and port the same way. I say this, but I also say that the least motion is in the centre of the ship. I cannot say where the centre of motion is.

Q. Why do you say, as you do, that your vessel was backing at the time of collision; how do you know that fact?

In all cases that I have noticed she is backed with less revolutions than we could have made then; that is what I judge from.

Q. You say that you struck the barge about two-thirds from forward, as you think. What movement of your ship would have enabled you to clear the barge altogether, and not have struck her in the place where you did?

A. I am not able to say.

Re-examined.

I could not, at the time referred to in the last *last* cross-interrogatory, made any movement to have avoided the barge.

Re-cross-examined by Mr. Phillips.

We had a corpse on board, and I did afterwards stop at quarantine. The collision was from 7 to 9 miles from quarantine.

C. P. MARSHMAN.

Sworn to and subscribed, Oct. 31, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

November 23, 1857.

Mr. Keyser, Mr. Wharton:

John Birely, being duly sworn, says:

I am a ship carpenter, and made an examination of the barge A. Groves about two months ago. I did not make any minute of the time. The A. Groves was an old boat, betwixt six and eight years old. We did not build her; she was built above us. She was struck a little abaft midships, I think, on the larboard side—no, no, she was struck on the starboard side. I am certain it was on the starboard side. The blow was a little quarterly—may be about 60 degrees. You couldn't tell the exact course the vessel was coming when she struck; the man had cut the plank in raising her. You couldn't tell the exact quarter; it was a kind of off and on stroke, a little angling, about 60 degrees. The blow could not have been a heavy one, because, when it come down to where the plank was edgeways, there it stopped. I think it come down to the bilge streaks about 4 feet.

Q. Could that blow have been produced if the steamer Keystone State had been, at the time of collision, at rest in the water?

A. Yes, with the force the other boat was towing. I believe the tide, itself, would mash one of those barges, if the steamer was lying at anchor; the tide runs very strong, and with a great deal of force there; that is, if she struck between the beams, not if she struck on the end of the beam. Those beams are about five feet apart. The boat was struck in the weakest part of her.

Q. If the boat was towing at the rate of six or eight miles an hour, at what rate must the steamship been going to have produced no heavier blow?

A. She couldn't have been going any at all; she would have cut the boat in half, and you wouldn't have seen anything of her.

Cross-examined by Mr. Wharton.

I was not present at the collision, and form my opinion from the appearance of things. JOHN BIRELY.

Sworn to and subscribed, Nov. 23, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

November 28, 1857.

Mr. Keyser, Mr. Wharton:

Harman Vaughan sworn.

I examined the barge A. Groves, after the collision. I am a ship-builder. She was cut pretty bad; I suppose two feet into the boat, in a little bit of an angle.

Adjourned till Monday next, at 4¼.

MONDAY, *November* 30, 1857.

Present, Mr. Keyser.

Adjourned till to-morrow, at 3½ o'clock.

TUESDAY, *December* 1, 1857.

Present, Mr. Keyser, Mr. Wharton.

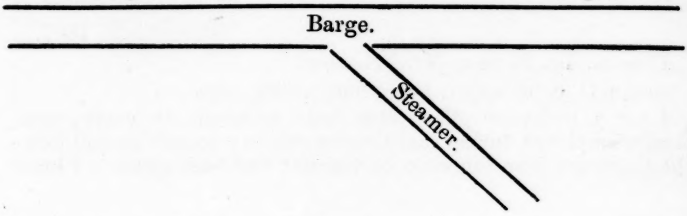
The examination proceeds.

Q. Suppose the barge had been moving through the water at the rate of 6 or 8 knots an hour, and the steamer had been at rest in the water, could the damage have occurred, that you observed, on the barge?

A. Yes, sir, I think it could. I have had my attention called to vessels striking in that way, more or less, pretty often. I have seen damage in various ways, not precisely similar to this, but in every way a vessel could be struck by another.

The plank on the upper part of the barge was about 2½ inches thick; that on her bilge was an inch think; it was worn away by going through the canal; she was struck in about as weak a part as you could strike her—in the midship part of the boat, or in that neighborhood. I observed carefully at the time where she appeared to have been struck, and it was in that part.

If the ship had been under headway, she would have went right over the barge; she appeared to have been struck at an angle, thus:



Cross-examined by Mr. Wharton.

Q. I wish you to give your reasons for the opinion, that the damage, such as you examined, could have been caused by the barge moving at the rate mentioned to you, and coming in contact with the steamship, while the latter was stationary.

A. My reason is, the barge was pretty heavy loaded, and according to the thickness of plank on the boat, and the weight in her, it would cause that damage. The frame work and the planking both constitute her strength. This blow cut through the frame work, split a beam, and knocked it to one side, I believe. I didn't take any particular note of the thing, and I now give it as my memory serves me. The frame work of this boat was as strong as canal boats generally are; the frame was, I think, a strong frame. You can't call the plank-shear and fender very strong; they were considerably wore. The stern of a boat is stronger than the sides, if they are built right. The barge was from 80 to 90 feet long I should judge, I did not measure; the blow was on the larboard side; if my memory serves me, I think the injury was about midships of the boat, and not about 20 feet from the stern. I know the Keystone State; her stem is a very sharp one.

Q. You have said that, in your opinion, if the steamship had been in motion, she would have gone over the barge. Do you not know, that, by the force of the blow in this case, the barge sank shortly after the collision?

A. I presume she did, sir. When I speak of my knowledge of collision, I speak of examinations of vessels after such accidents. I never saw a collision, except some trifling collisions on the Delaware. I didn't see this particular collision.

Re-examined.

If the steamer had been in full headway, I meant to say that she would have run right through her, not over her.

HARMAN VAUGHAN.

Sworn on the 28th November, 1857, and subscribed on the 1st December, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

December 4, 1857.

Present, Mr. Keyser, Mr. Wharton.

Lester D. Schellinger, being duly sworn, says:

I am a Delaware pilot; have been so about 18 years; principally employed during that time in piloting vessels up and down the Delaware from the cape to the city and back again. I know

the channel of the river about Marcus Hook, and the position of Christine light.

Q. Suppose a vessel to be steering down the channel, on the true course of the channel, abreast of Marcus Hook, or a mile below, how would the Christine light show?

A. It would be on the port bow, about a point, nearly.

Q. How must the vessel be steering to show the light on the starboard bow?

A. S. W., or S. W. half south.

Q. Is that out of her true course?

A. The true course is S. W. by W., but vessels don't always steer the true course. When I have charge of a vessel, I always keep them in the true course, if I can. You sometimes have to alter it. You can't always keep in the true course.

Cross-examined by Mr. Wharton.

Q. If a vessel steered from a point abreast of Marcus Hook, and made for the Jersey channel, along a course which would bring her by the buoy at the end of Marcus Hook bar, on which of her bows would she have the Christine light?

A. She would have it on the starboard bow, a long ways.

LESTER D. SCHELLINGER.

Sworn to and subscribed, Dec. 4, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

Release.

The New York and Baltimore Transportation Company do hereby release and forever discharge Jeremiah Bennett, the pilot of the steamship the Keystone State; Charles P. Marshman, the captain; John Murphy, the second officer; Hiram Griffith, first assistant engineer; and Samuel Ashton, seaman, from all claim, responsibility, and liability, for or by reason of the collision which occurred on the Delaware river, in the month of August, A. D. eighteen hundred and fifty-seven, between a certain barge, the A. Groves, jr., and the said steamship the Keystone State, and all the consequences thereof.

Witness the corporate seal of the said company, at Philadelphia, this 22d day of October, A. D. eighteen hundred and fifty-seven.

[L. S.]

M. WILLIAMSON,
Pres't New York and Baltimore Transportation Co.

Attest:

WM. DENNIS,
Secretary and Treasurer.

In the District Court of the U. S., in and for the E. D. of Penn'a.—
In Admiralty.

THE NEW YORK AND BALTIMORE TRANSPORTATION CO.
vs.
THE KEYSTONE STATE.

Depositions of witnesses e. p. respondent, taken at Philadelphia, Dec. 29, 1857, before Chas. F. Heazlitt, U. S. Commissioner.

Mr. C. S. Keyser, for respondent; Mr. Phillips and Mr. Wharton, for libellants.

John Joseph Bradley, being duly sworn, says:

I was first officer of the S. S. Keystone State; I was on board on the occasion of collision, 18th August last; I was lying in the mess-room; I had been off deck a little while; I came up immediately after the collision; I did not, at that time, notice the lights; I left the deck about quarter past 12, I should judge about that time, to go below; I noticed the lights before I left the deck; I have to do that, so as to turn them over to the officer relieving me; there were three lights—red light on the larboard side, green on the starboard, and white at the mast-head.

Cross-examined.

I did not see the other vessel before I left; I should suppose the Keystone State was going about nine knots an hour, may be not so much; I was in my room three-quarters of an hour at the time of collision; my vessel was above Wilmington at the time I turned in; she might have been three or four miles above Wilmington; when I saw the barge we were foul of her; I can't say if she parted her hawser; the steamer propeller came and towed her over to the western shores; the barge passed on our larboard side, under our bow; we ran into her some 6, 7 or 8 feet, about 8 or 10 feet from the stern; I can't say what part of the channel we were in; I had just came on deck; I can't say whether we were nearer the western or eastern shore, I didn't notice; I assisted in getting the men out of the barge, and went and lay down again; I can't tell how far we were from the Pennsylvania shore; I don't know where the ship was, exactly; I don't know how wide the channel; I can't say whether it is as much as a mile wide, or a quarter of a mile in width, at that place; I don't know where we were at that time; I don't know which way the vessel was steering at the time I turned in; she was in charge of the pilot; I don't know how she was steering when I turned out; the jar made me turn out; it would have made a dead man turn out; our ship was backing—backing hard; I heard the bells ring; the engine, I suppose, had made seven or eight revolutions back, and the ship was backing—going astern.

The ebb tide running must have swept the barge down on the steamer; there could be no other way; the barge must have been coming faster than the steamer was backing, or my theory is not correct.

Mr. Wharton:

I was not asleep at the time; the first that attracted my attention was the ringing of the bells; the jar or crash came in about five or six minutes, perhaps more; I didn't pay particular attention, because we ring the bells so frequently coming up the river, for vessels that have lights, and those that have no lights, I did not rise until the crash; I was not dozing; I was sitting down when I heard the crash.

JOHN J. BRADLEY.

Sworn to and subscribed, Dec. 29, 1857.

CHAS. F. HEAZLITT,
U. S. Commissioner.

The Philadelphia and Savannah Steam Navigation Company do hereby release and forever discharge John Joseph Bradley and Joseph Fernandez from all claim or responsibility for or by reason of a collision which occurred on the 18th day of August, A. D. 1857, between the barge the A. Groves, jr., and the steamer the Keystone State, and all the consequences thereof.

Witness the corporate seal of the company, this 28th day of December, A. D. 1857.

[SEAL.]

WM. DENNIS,
Secretary and Treasurer.

Afterwards, to wit, on the thirtieth day of December, A. D. 1857, this cause coming on to be heard on the libel, answer, and depositions, and the argument of the several proctors being heard and duly considered, it is ordered, adjudged, and decreed by the court that the said libel be dismissed with costs.

And thereupon, the said libellants, by George M. Wharton, esquire, pray leave to appeal from the said decree to the next circuit court of the United States in and for the eastern district of Pennsylvania. And the same is allowed on due stipulation being given.

UNITED STATES,
Eastern District of Pennsylvania.

I certify the foregoing to be a true and faithful copy of the record and proceedings of the district court of the United States in and for the eastern district of Pennsylvania, in a certain plea, civil and maritime, therein lately depending, wherein the New York and Baltimore Transportation Company was libellant against the steamship Keystone State.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of said court, at Philadelphia, this first [L. S.] day of February, A. D. 1858, and in the eighty-second year of the independence of the said United States.

CHAS. F. HEAZLITT,
Clerk Dist. Court.

Afterwards, to wit, on the 29th day of October, A. D. 1858, this cause came on to be heard upon appeal from the district court, and having been duly considered, and the arguments of the several proctors having been heard, it is ordered, adjudged, and decreed, that the libel be dismissed, and a decree entered for respondents, with costs.

Thereupon, to wit, on the 9th day of November, A. D. 1858, the libellants in open court pray an appeal to the Supreme Court of the United States, from the decree of the said circuit court, dismissing the libel of the said libellants, and enter security, which is in the words following, to wit:

THE NEW YORK AND BALTIMORE TRANSPORTATION COMPANY
vs.
THE KEYSTONE STATE.

Know all men by these presents, that we, Anthony Groves, junior, and George W. McLean, are held and firmly bound unto the Philadelphia and Savannah Steam Navigation Company, owners of the steamship Keystone State, in the sum of three hundred dollars, lawful money of the United States, to be paid to the said Philadelphia and Savannah Steam Navigation Company, owners of the steamship Keystone State, their heirs, executors, administrators and assigns, to which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents. Sealed with our seals respectively, and dated this 15th day of November, A. D. 1858.

Whereas the New York and Baltimore Transportation Company have lately appealed to the Supreme Court of the United States, from the decree of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, made and pronounced in a certain plea, civil and maritime, sur collision, therein lately depending between the said New York and Baltimore Transportation Company, libellants and appellants, and the Philadelphia and Savannah Steam Navigation Company, owners of the steamship Keystone State, respondents and appellees:

Now, the condition of this obligation is such, that if the said appellants as aforesaid shall well and truly prosecute their said appeal with effect, and answer all such costs as upon an affirmance of the said decree of the said circuit court may be adjudged to the

said appellees, then this obligation to be void; otherwise to remain in full force and virtue.

A. GROVES, JR., [S.]
GEO. W. McLEAN. [S.]

Sealed and delivered in the presence of—
F. P. HALLOWELL,
J. BURCHARD.

UNITED STATES,
Eastern District of Pennsylvania, set.

I certify the foregoing to be a true and faithful copy of the record and proceedings in the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, in a certain plea, civil and maritime, therein lately depending, wherein the New York and Baltimore Transportation Company were libellants and appellants, and the Philadelphia and Savannah Steam Navigation Company, owners of the steamship Keystone State, were respondents and appellees.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the said court, at Philadelphia, this [L. S.] twentieth day of November, A. D. 1858, and in the eighty-third year of the independence of the said United States.

J. BURCHARD,
Dep'y Cl'k Circ't C'rt U. S.

Filed 11th December, 1858.

NEW YORK AND BALTIMORE TR. CO. vs. KEYSTONE STATE. } Sup. Court U. S.

Agreed that the annexed paper be filed with like effect as though returned with and part of the record in this case.

G. M. WHARTON,
For Appellants.
ST. GEO. T. CAMPBELL,
For Appellee.

Jan'y 22, '59.

W. T. CARROLL, Esq.,
Clerk Sup. Court U. S.